

**ADDRESSING THE DEPARTMENT OF HOMELAND
SECURITY'S MORALE CRISIS**

HEARING

BEFORE THE

**SUBCOMMITTEE ON MANAGEMENT,
INVESTIGATIONS, AND OVERSIGHT**

OF THE

**COMMITTEE ON HOMELAND SECURITY
HOUSE OF REPRESENTATIVES**

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

APRIL 19, 2007

Serial No. 110-24

Printed for the use of the Committee on Homeland Security



Available via the World Wide Web: <http://www.gpoaccess.gov/congress/index.html>

U.S. GOVERNMENT PRINTING OFFICE

43-560 PDF

WASHINGTON : 2009

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON HOMELAND SECURITY

BENNIE G. THOMPSON, Mississippi, *Chairman*

LORETTA SANCHEZ, California,	PETER T. KING, New York
EDWARD J. MARKEY, Massachusetts	LAMAR SMITH, Texas
NORMAN D. DICKS, Washington	CHRISTOPHER SHAYS, Connecticut
JANE HARMAN, California	MARK E. SOUDER, Indiana
PETER A. DeFAZIO, Oregon	TOM DAVIS, Virginia
NITA M. LOWEY, New York	DANIEL E. LUNGREN, California
ELEANOR HOLMES NORTON, District of Columbia	MIKE ROGERS, Alabama
ZOE LOFGREN, California	BOBBY JINDAL, Louisiana
SHEILA JACKSON LEE, Texas	DAVID G. REICHERT, Washington
DONNA M. CHRISTENSEN, U.S. Virgin Islands	MICHAEL T. McCAUL, Texas
BOB ETHERIDGE, North Carolina	CHARLES W. DENT, Pennsylvania
JAMES R. LANGEVIN, Rhode Island	GINNY BROWN-WAITE, Florida
HENRY CUELLAR, Texas	MARSHA BLACKBURN, Tennessee
CHRISTOPHER P. CARNEY, Pennsylvania	GUS M. BILIRAKIS, Florida
YVETTE D. CLARKE, New York	DAVID DAVIS, Tennessee
AL GREEN, Texas	
ED PERLMUTTER, Colorado	
VACANCY	

JESSICA HERRA-FLANIGAN, *Staff Director & General Counsel*

ROSALINE COHEN, *Chief Counsel*

MICHAEL TWINCHEK, *Chief Clerk*

ROBERT O'CONNOR, *Minority Staff Director*

SUBCOMMITTEE ON MANAGEMENT, INVESTIGATIONS, AND OVERSIGHT

CHRISTOPHER P. CARNEY, Pennsylvania, *Chairman*

PETER A. DeFAZIO, Oregon	MIKE ROGERS, Alabama
YVETTE D. CLARKE, New York	TOM DAVIS, Virginia
ED PERLMUTTER, Colorado	MICHAEL T. McCAUL, Texas
VACANCY	PETER T. KING, New York (<i>Ex Officio</i>)
BENNIE G. THOMPSON, Mississippi (<i>Ex Officio</i>)	

JEFF GREENE, *Director & Counsel*

BRIAN TURBYFILL, *Clerk*

MICHAEL RUSSELL, *Senior Counsel*

(II)

CONTENTS

	Page
STATEMENTS	
The Honorable Christopher P. Carney, a Representative in Congress From the State of Pennsylvania, and Chairman, Subcommittee on Management, Investigations, and Oversight	1
The Honorable Mike Rogers, a Representative in Congress From the State of Alabama, and Ranking Member, Subcommittee on Management, Investigations, and Oversight	3
The Honorable Bennie G. Thompson, a Representative in Congress From the State of Mississippi, and Chairman, Committee on Homeland Security ..	4
The Honorable Yvette D. Clarke, a Representative in Congress From the State of New York	45
The Honorable Peter A. DeFazio, a Representative in Congress From the State of Oregon	47
The Honorable Ed Perlmutter, a Representative in Congress From the State Colorado	43
WITNESSES	
Mr. J. David Cox, National Secretary—Treasurer, American Federation of Government Employees:	
Oral Statement	21
Prepared Statement	23
Ms. Colleen M. Kelley, National President, National Treasury Employees Union:	
Oral Statement	10
Prepared Statement	12
The Honorable Marta Brito Pérez, Chief Human Capital Officer, Department of Homeland Security:	
Oral Statement	5
Prepared Statement	7
Mr. Max Stier, President and CEO, Partnership for Public Service:	
Oral Statement	29
Prepared Statement	31
APPENDIXES	
Appendix A: An Overview of Civil Service Reform Efforts	55
Appendix B: Questions and Responses:	
Mr. J. David Cox Responses	57
Ms. Colleen M. Kelley Responses	60
The Honorable Marta Brito Pérez Responses	64
Mr. Max Stier Responses	81

ADDRESSING THE DEPARTMENT OF HOMELAND SECURITY'S MORALE CRISIS

Thursday, April 19, 2007

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON MANAGEMENT,
INVESTIGATIONS, AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to call, at 10:11 a.m., in Room 311, Cannon House Office Building, Hon. Christopher Carney [chairman of the subcommittee] presiding.

Present: Representatives Carney, Thompson, DeFazio, Clarke, Perlmutter, and Rogers.

Mr. CARNEY. [Presiding.] The subcommittee will come to order.

The subcommittee is meeting today to receive testimony on "Addressing the Department of Homeland Security's Morale Crisis."

I would like to take this opportunity to thank the witnesses for joining us today to discuss the employee morale issue at the Department of Homeland Security.

I had an opportunity earlier this year to speak with Chief Human Capital Officer Pérez. It was a brief meeting, and I hope we can really delve a bit deeper into some of these issues with concerns of morale at DHS.

I also would like to thank my colleague from Alabama, Mr. Rogers. I know during his tenure in Congress earlier, under his leadership the committee began examining this issue.

Frankly, I am very worried about the job satisfaction at DHS. It has literally gone from bad to worse.

When the administration first proposed the creation of DHS, the leadership in the House rubber-stamped a proposal to allow DHS to experiment with a personnel system and ignore the traditional civil service system.

The proposed system was touted as a system of the future, a surefire way to increase productivity and keep employees happy. It is and was an utter failure.

In the OPM personnel study, DHS went from third-worst in terms of employee satisfaction to dead last in the most recent survey.

I believe, along with countless others, that this dissatisfaction is a direct result of not only the mashing of 22 different agency cultures in the formation of DHS but of the one thing that really has tied everyone together when DHS couldn't seem to integrate anything else. That is MaxHR.

I wish we weren't still talking about MaxHR. In fact, I am sure there are thousands upon thousands of people who wish MaxHR was a moot point.

That said, during our earlier meeting this year with Ms. Pérez, she basically told me that simply the name MaxHR was being laid to rest.

Most of the human resources practices that were part of MaxHR were being rolled into a new human capital management system, HCOP.

We know both from the OPM survey and directly from DHS employees that the experimental H.R. system at DHS is what has caused many of their headaches and much of their disappointment with the department.

So it seems wrong to just change the name of the system without making some radical changes to the system.

I believe that Mr. Stier's organization will be releasing a study today that simply confirms that OPM data, and may be giving us a little more insight into this dissatisfaction.

While the OPM survey is a snapshot in time, a few years ago satisfaction was higher, and now it is lower. [inaudible] DHS is already in last place, it is difficult to give the level of dissatisfaction a value.

But I am sensing a trend where dissatisfaction continues, and unhappiness of employees usually begets further unhappiness when not properly addressed by management.

I am hopeful that under the leadership of the current undersecretary for management, DHS will begin to listen better to its employees. He has already assured me that he will stop referring to valued DHS employees as "human capital."

Also, I look forward to hearing from Ms. Kelley and Mr. Cox. I don't know whether Ms. Pérez has had the pleasure of meeting with the NTEU or the AFGE representatives yet.

Hopefully, this hearing can begin the process of DHS listening to the concerns of its human capital and make real changes that will bring about a positive change in the satisfaction levels of DHS employees.

We cannot afford to have such staggeringly low morale at the department tasked with protecting our nation. It is time we roll up our sleeves and really get down to business righting the wrongs of DHS.

Congress, DHS leadership, the rank and file employees of DHS and the administration must work toward pulling DHS toward the top of the OPM survey.

I know human resources isn't the sexiest issue to explore, but I really believe—I truly believe that if we can address and correct the personnel management side of the equation, morale will vastly improve as well.

It will certainly not be accomplished overnight, but happy DHS employees will ultimately lead to a better department and a more secure nation.

Additionally, I would like to remind the department that our committee as a whole requires that testimony be submitted 48 hours prior to the hearing. I would like to thank Ms. Kelley, Mr. Cox and Mr. Stier for getting that testimony in on time.

I would appreciate it if DHS would comply with the committee rules from this point forward.

Thanks again to all of you for your cooperation and candor.

The chair now recognizes the ranking member of the subcommittee, the gentleman from Alabama, Mr. Rogers, for an opening statement.

Mr. ROGERS. Thank you, Chairman Carney, and thank you for holding this hearing.

And I want to thank each of the panelists for taking the time to join us and interact with us on this very important topic of personnel happiness or morale.

And this is the first time I understand that we are going to have the new chief human capital officer with us before this committee, and I hope it is the last time you are before this committee with that title.

We have directed in the authorization bill the Secretary to come up with a new title for that position. We don't care what it is, but human capital is just not the way we want to personalize that job.

So, welcome here.

We also welcome back two employee unions which appeared before this subcommittee last year.

Today we build on that hearing that this subcommittee held in the 109th Congress on personnel challenges facing the department. While progress has been made since then, much more needs to be done.

As the chairman noted, the Office of Personnel Management recently released its employee survey which ranked DHS at or near the bottom of the various job satisfaction categories.

The department's deputy secretary, Michael Jackson, wrote to all DHS employees indicating the survey rankings are unacceptable. He, along with the secretary and undersecretary for management, are taking steps to address these results.

In addition, last year Secretary Chertoff requested that the Homeland Security Advisory Council conduct a review of the department's culture.

The Council's so-called Culture Task Force issued its recommendations in January, and the department's leadership is now considering which ones to implement.

Experts have testified that a major merger, even one less complex as DHS, takes approximately 7 years to be successful.

DHS employees have been through three reorganizations in just 4 years: the creation of the department in 2003, the second stage review in 2005, and the reform of FEMA this year.

Such reorganizations have a negative impact on employee morale, and the department's current structure should be given time to work.

Today we will hear about two new departmental initiatives, the Human Capital Operational Plan and a Learning and Development Strategy. We look forward to hearing from our witnesses as to what impact these initiatives will have on DHS employees.

We also will hear from the president of the Partnership for Public Service on the importance of creating a performance-based culture at DHS and how this approach would help the department fulfill its mission.

It has been over 4 years since the department was established, and it still has significant personnel challenges. These challenges need to be addressed to ensure that the dedicated folks who work at DHS are best able to protect our nation from terrorist attacks and natural disasters.

With that I yield back, Mr. Chairman.

Mr. CARNEY. Thank you, Mr. Rogers.

The chair now recognizes the chairman of the full committee, the gentleman from Mississippi, Mr. Thompson, for an opening statement.

Mr. THOMPSON. Thank you very much, Mr. Chairman. Thank you for convening this hearing.

I welcome the witnesses to this hearing this morning. We appreciate your willingness to provide us with your input on how we can fix the Department of Homeland Security.

This week's event at Virginia Tech clearly demonstrates the need for achieving this goal quickly.

It is no secret that morale in the department is low, one of the lowest of all federal agencies, and that is a huge problem. But what really worries me is that this is not a new problem. This department cannot continue to score last or near last in leadership, performance, talent and satisfaction on the job.

A former director of the department's cultural task force said it best: "Stop talking about Team DHS and start talking about Team Homeland Security." Why? Because this team is united for a common goal.

That goal is to protect, secure and strengthen this great country. Every job within the department is important to achieving that goal, and employees must feel, believe and know that, in order to accomplish it.

Today we will address why employees within the department are plagued with low morale and what the department is doing to address this crisis.

We must afford the department employees the same protections afforded other civil service employees [inaudible] protecting the nation.

We have seen the survey results, and they are bad. We have heard from the culture task force, and they said the department's conditions are bad. We have listened to employees, and they have said MaxHR was bad.

We must turn this around, because too much is at stake. Team Homeland Security cannot fail. We are dedicated to seeing [inaudible] to success.

Mr. Chairman, I yield back, but I want to say at the outset that I am, like you, very concerned about morale. This committee is concerned. And if our partners in this effort will work with us, I am sure that in time we can overcome this.

And I yield back.

Mr. CARNEY. I thank the chairman of the full committee for his comments.

Of course, he and I are very concerned, as is Mr. Rogers, as is the entire committee is, is quite concerned. And it is critical that the morale improve, that we move forward and make this nation safer.

Other members of the subcommittee are reminded that under committee rules opening statements may be submitted for the record.

I welcome the witnesses.

Our first witness is Marta Brito Pérez, chief human capital officer of the Department of Homeland Security. Ms. Pérez came to the department late last year from the Office of Personnel Management, where she led the human capital leadership and merit system, accountability division.

Prior to her federal service, Ms. Pérez was the director of the office of human resources for the Montgomery County, Maryland government, where she oversaw all aspects of human resource management for more than 10,000 employees and 4,000 retired employees and their dependents.

Our second witness is Colleen M. Kelley, president of the National Treasury Employees Union. NTEU represents over 150,000 federal employees, 15,000 of whom are Customs and Border Protection employees within the Department of Homeland Security.

President Kelley has been an NTEU member since 1974 and has served in various NTEU chapter leadership positions. She was first elected president in August of 1999 and was reelected for a second 4-year term in August of 2003.

Our next witness is J. David Cox, the secretary-treasurer of the American Federation of Government Employees, AFL-CIO. AFGE represents more than 600,000 federal employees, including 60,000 who work in the Department of Homeland Security.

Mr. Cox was elected secretary-treasurer in August 2006. Prior to this, he served more than 11 years as first executive vice president of the AFGE national veterans affairs council.

Our final witness is Max Stier, president and CEO of the Partnership for Public Service. The Partnership for Public Service seeks to revitalize the federal civil service by making the government an employer of choice for talented Americans.

Mr. Stier has worked previously in all three branches of the federal government, including clerking for Supreme Court Justice David Souter. Most recently, Mr. Stier was deputy general counsel for litigation with the Department of Housing and Urban Development.

Without objection, the witnesses' full statements will be inserted into the record.

I now ask each witness to summarize his or her statement for 5 minutes, beginning with Chief Human Capital Officer Pérez.

STATEMENT OF HON. MARTA BRITO PÉREZ, CHIEF HUMAN CAPITAL OFFICER, DEPARTMENT OF HOMELAND SECURITY

Ms. PÉREZ. Good morning. And thank you very much, Chairman Carney, Representative Rogers, Chairman Thompson and members of the subcommittee. It is an honor for me to appear before the committee today for the very first time.

During my short tenure at the department, I have had the opportunity to experience the dedication of employees across the department. And I agree completely with you that the work that they do is extremely important to our nation and the reason I came to work at homeland security.

I have also worked very closely with our components to develop a human capital strategy and a direction for a human resources program that is consistent with the vision of the country and the expectations they have

My role is to ensure the capacity of the department relative to employees, their morale, the way they do their work, their training, and I hope to contribute in that area.

When DHS was created, it was one of the largest mergers to ever take place in the federal government. And you are absolutely right, many suggest that a reorganization of that nature takes 5 years to 7 years to complete. We are only 4 years into that journey.

It will take time to fully integrate, but I am very happy to say that in the time that I have been here, I have had the opportunity (and I traveled last week, as an example, down to the border on the southern border and saw how many of our legacy components are working together to make sure they get the mission done. And we have much of which to be proud.

And although the general results of the Federal Human Capital Survey were very disappointing, we know that our employees have a very strong passion for our mission.

Eighty-nine percent of them said that they believe in the work that they do. Eighty percent said that they like the work that they do. And we need to capitalize on that.

The survey also showed that there are challenges, and we have begun already to address many of the challenges. And in fact, we have rolled out a human capital operational plan—it is just a plan—for 2007 and 2008. The plan serves as a roadmap for integrating the department's human resources programs and activities and to identify priorities for the coming years.

The priorities that we have identified with the components are hiring and retaining a diverse workforce, ensuring that we have a culture of performance that impacts our employees, offering learning and development opportunities, facilitating the use of development and integration, service excellence—these are all things that the committee has already expressed as are important.

The five priorities signal an evolution in the areas of emphasis in the Department of Homeland Security. We have discontinued the use of the term “Max.” This is not, however, just a name change. The areas that Max emphasized were limited.

We have expanded the areas that we are now addressing as being important to us, areas—for instance, hiring, retaining, developing employees. Those are areas that [inaudible] MaxHR. That is the reason why the name is no longer relevant to us.

There is nothing in the human capital operational plan that diminishes our employee rights, and it is my responsibility—and I was head of oversight at the Office of Personnel and Management. I had the opportunity to audit federal departments and their human capital practices to ensure compliance of merit system and rights.

We are responding to the surveys with a two-prong approach, department-wide and as a component. Department-wide we are conducting focus groups—the components are also conducting focus groups—to learn more for employees about what—you know, about

what actions do we need to take and how should we address their concerns.

We have already increased our accountability by requiring that our executives and our managers in their performance plan address integrity, leading employees, communications, diversity, performance, innovation, collaboration and stewardship of the public resources.

The homeland security advisory council that you have alluded to said that accountability is the most important area, and we agree with that.

We are increasing the use of capacity in facilitating integration by delivering new leadership programs that address those areas that were identified this week in the survey.

We have trained over 14,000 managers and supervisors in how to establish new goals, how to talk to employees, how to provide feedback, how to reward our employees.

We are expanding the coverage and will work with employee representatives, employee unions, and hopefully get their support to roll out the program and better communication for employees in 2007 and beyond.

In the hiring side, we are working very closely with our partners in the Office for Civil Rights and Civil Liberties to make sure that whatever initiatives we have relative to outreach and recruitment incorporate strong program relative to bringing diversity to the department.

Just recently we had conducted a summit, a recruitment summit, with national organizations from places like the National Black MBA, Hispanic Association of Colleges and Universities, Women in Law Enforcement, to make sure that every program that we have in place is a program that addresses not only the recruitment needs but the diversity needs of the department.

We are also developing a comprehensive diversity strategy for the department and have a new learning and development strategy to ensure that our employees have the skills that they need to accomplish the mission.

In conclusion, I believe that the programs that we have initiated and the action plans that are in place will have a significant impact on improving the survey results.

I am passionate about the work that I do. I take my responsibility at DHS very seriously. And I, too, want the DHS to be a best place to work. Thank you for the opportunity. I will be happy to respond to any questions.

[The statement of Ms. Pérez follows:]

PREPARED STATEMENT OF MARTA BRITO PÉREZ

Thank you, Chairman Carney, Representative Rogers and Members of the Subcommittee. It is an honor to appear before you today to discuss current and planned Department of Homeland Security (DHS) human capital initiatives and programs.

I was appointed as the Department's Chief Human Capital Officer on September 18, 2006. Prior to joining DHS, I headed the Human Capital Leadership and Merit System Accountability Division with the Office of Personnel Management. In this capacity, I led the government-wide effort to transform human management so that agencies are held accountable for managing their workforce effectively and efficiently. I was the architect of the Human Capital Assessment and Accountability Framework, a set of standards and measures designed to evaluate human capital management practices in the federal government. I have also had the opportunity

to work in labor negotiations and have trained domestic and international law enforcement professionals.

As the Department's Chief Human Capital Officer, I provide direction and oversight for all elements of the Department's human resources management programs. In my six months serving the Department, I believe I have gained a sound understanding of the complexities of the organization and the challenges we face in ensuring we have the high-quality workforce needed to achieve our critical mission.

I have had the opportunity to meet with and observe the hard work and dedication of employees across the Department of Homeland Security. I have also observed that our ability to deliver on our critical mission depends upon the hard work, knowledge, diligence and insights of these employees.

My office plays an important role in ensuring and supporting DHS' capacity to build and sustain a high-performing workforce and provide programs to give employees at all levels the knowledge and tools they need to drive mission success.

Organizational Transformation

When DHS was created it was one of the largest "mergers" to ever take place in the Federal government. GAO, in a report released this past February, stated that "successful transformations of large organizations, even those faced with less strenuous reorganizations than DHS, can take five to seven years to achieve." We also know from the research that mergers create a great deal of anxiety for the workforce and that initial resistance is common. DHS is only four years into this journey. While we are making great progress, it will take time to become a fully-integrated organization. We understand that this work is on-going and provides us the opportunity to achieve our goals. I do not want to minimize the excellent progress that has been made. Just last week I spent three days with our employees on the border discussing how the various legacy organizations have integrated. We have much of which to be proud.

Federal Capital

Although the general results of the Federal Human Capital Survey were disappointing we are encouraged by the fact that DHS employees have a strong passion for our mission. 89% percent of employees report that they believe the work they do is important, and 80% percent like the Department of Homeland Security Testimony Work that they do. We also need to be mindful that the survey is only one source of data, which reflects the attitudes of our workforce at a single point in time. It is important information that we are taking seriously, but should be considered with other data. Our employees' passion for their jobs provides a strong foundation for future improvement.

The survey did show that DHS faces many challenges. Addressing the issues raised in the Federal Human Capital Survey, and similar issues raised by the Homeland Security Culture Task Force, is one of the highest priorities of the Secretary and the entire DHS leadership team is committed to this end. And make no mistake; we recognize that moving the needle in the Federal Human Capital Survey is a leadership responsibility. Many of these challenges are being addressed through a number of initiatives, including the 2007–2008 Human Capital Operational Plan.

The Plan supports the DHS mission, DHS Strategic Plan and the Secretary's goals and serves as for our efforts to integrate the Department's human resources management programs.

It allows DHS to adjust to new and changing priorities while maintaining focus on five key priorities:

1. Hiring and retaining a talented and diverse workforce
2. Creating a DHS-wide culture of performance—Team DHS
3. Creating high-quality learning and development programs
4. Implementing a DHS-wide integrated leadership service
5. Becoming a model of human capital service excellence

These five priorities signal an evolution in the areas of emphasis in DHS human resource programs. We have discontinued the use of the term However, we continue to deploy the more employee-centric performance management program and we are exploring with OPM labor relations flexibilities and will work with employee representatives as appropriate in the implementation of changes to our program.

Our response to the Federal Human Capital Survey is two-pronged, with ongoing data analysis and action planning taking place at both the enterprise and the component level. I am meeting with employee representatives and visiting employees in field offices where more than 85% of our employees work. We will conduct focus groups with employees across the Department in order to learn more and act on their concerns on key issues such as leadership and communication. Our components will hold focus groups as well. These focus groups will represent a cross-section of the Department and will be vital in obtaining information to better under-

stand the results of the survey. Information obtained during these sessions will be further analyzed. We are also leveraging best practices from the components across the Department. Finally, my office will track and report on the progress made across the Department toward executing activities identified in action plans.

Even before the focus groups take place, we are taking steps to improve communications, leadership and performance. Some examples include:

- Increasing accountability by incorporating in the performance plans of executives and managers key DHS skills/values—Integrity, Leadership, Communications, Diversity, Performance, Innovation, Collaboration and Stewardship of the public resources;
- Enhancing DHS websites; and
- Offering a DHS 101 module that explains DHS, what it does, who is in it, the Secretary's priorities and how each organization relates to them.

To enhance leadership capacity and facilitate integration, we are:

- Delivering new leadership training programs to focus on core skills identified in the survey;
 - Incorporating rotational assignments and mentoring in our leadership program; and
 - Creating a Speakers Bureau made up of the best and brightest leaders from across the Department.
- With regard to our new Performance Management Program:
- We have trained over 14,000 managers and supervisors on sound performance management principles;
 - We are expanding coverage and our tools; and
 - Ensuring employees in the new performance system understand what is expected of them.

It is equally important to acknowledge that our components have been very active in their own organizations in addressing communications, leadership and performance issues. We are confident through these coordinated efforts we are addressing the areas for improvement identified by the survey throughout the Department.

Finding; Hiring and Keeping; a Qualified, Diverse Workforce

Another area which we believe to be of critical importance is continuing to recruit and retain the right talent. The Department is focused on hiring and retaining a talented and diverse workforce. We are improving our hiring processes by educating our hiring managers and human resource officials on existing hiring flexibilities, as well as implementing an enterprise e-Recruitment system to facilitate the recruiting process. We have also established a corporate branding initiative to fill mission support vacancies that cross component lines in areas such as information technology, acquisition and human resources. We are also working with the Partnership for Public Service to improve our vacancy announcements to make our jobs sound more appealing.

We are committed to ensuring that the DHS talent pool is representative of our Nation as a whole and are implementing Department and component recruitment strategies designed to find, hire and keep a qualified, diverse workforce.

To this end, we are working closely with the Office for Civil Rights and Civil Liberties. Examples of our partnership include a recently held Recruitment Summit to which the Officer for Civil Rights and Civil Liberties and I invited leaders of national organizations serving minorities and women to meet and discuss strategies for recruitment; and our joint meetings with DHS component heads to discuss employment and capacity building for minority serving institutions.

Learning and Development

Building on the HCOP, a Learning and Development Strategy for establishing a Department of Homeland Security University System, sets the course for how the Department will support a DHS-wide community of learning to develop our employees. The DHS University System supports program-specific skill development while also fostering a core set of homeland security preparedness, managerial and leadership skills.

Implementation of the DHS University System will foster a single, unified DHS and help to create a "Team DHS" culture.

Conclusion

We believe that the programs we have initiated and the action plans we are developing will have a significant impact on improving employee morale, sustaining a high-performing workforce and providing DHS employees with the knowledge and tools they need to be successful. We are laying the foundation but it will require a significant investment not only in DHS employees but also in the human capital

programs that support these goals, as reflected in the President's '08 Budget request.

Thank you for your leadership and your continued support of the Department of Homeland Security and the programs that support our employees. I would be happy to answer any questions you may have.

Mr. CARNEY. Thank you for your testimony.

I now recognize President Kelley to summarize her statement for 5 minutes.

**STATEMENT OF COLLEEN M. KELLEY, NATIONAL PRESIDENT,
NATIONAL TREASURY EMPLOYEES UNION**

Ms. KELLEY. Thank you, Chairman Carney, Ranking Member Rogers, Chairman Thompson and Mr. Perlmutter, I appreciate the opportunity to testify on the morale crisis at the Department of Homeland Security.

As we all know, DHS once again received these low scores, the lowest in any federal agency, in job satisfaction, leadership and workplace performance.

Widespread dissatisfaction with DHS management and leadership has created a morale problem that impacts employees' ability to do the job they want to do and that our country needs them to do.

A significant source of the morale crisis is the uncertainty DHS created when it proposed its seriously flawed new human resource system.

The Homeland Security Act that created the department required that any new human resource management system ensure that employees may organize, bargain collectively and participate through labor organizations of their own choosing in decisions which affect them.

Because the final personnel regulations failed to meet these statutory requirements, NTEU challenged those in court.

In 2005 the federal district court ruled that the regulations did not provide for collective bargaining or fair treatment of employees as required by the act.

And in 2006, the federal appeals court upheld that decision. DHS did not appeal that decision to the Supreme Court.

Despite the court rulings, DHS announced on March 7th, 2007 that it intends to implement provisions of the regulations that were not specifically struck down by the courts.

These provisions include limitations on employees' due process and appeal rights that were ruled as "not ripe" for a final decision, since no employee had yet been subject to discipline under them.

But the fact that the appeals court agreed with the district court's conclusion that these regs lacked basic fairness should have caused DHS to drop these compromised provisions.

DHS also intends to move forward with a new performance management system. We have had a preview of what a DHS pay-for-performance system would look like when Customs and Border Protection unilaterally eliminated the union management-administered performance award system.

For the last 2 years, CBP management unilaterally made performance award decisions behind closed doors, with those receiving and the reasons for the awards kept secret.

NTEU objected to the secretive process, and an arbitrator ruled in our favor, ordering the performance awards program to be redone in an open and transparent manner.

Inexplicably, DHS appealed this decision and repeated the unilateral secretive performance award process. Litigation continues on this.

NTEU strongly opposes the implementation of these compromised personnel regs and supports the provision in H.R. 1648 to repeal the DHS system in its entirety.

Another significant source of low morale is scheduling of employee work shifts. In the past, employees had input into which qualified employee would work which shift based on such criteria as seniority, expertise and volunteers.

Now CBP management unilaterally makes all such decisions without any employee input and without a credible, transparent decision-making process.

Many employees believe that CBP has used shift determination as an instrument of discipline and retaliation.

Another area of concern for CBP officers is the One Face at the Border initiative that consolidates immigration, customs and agriculture inspection specialties into a single front line security position at ports of entry.

Congress must ensure that expertise is retained with respect to these functions. The One Face at the Border initiative does not do that, and it thereby jeopardizes our nation's security.

It is clear that CBP sees its One Face at the Border initiative as a means to increase management flexibility to increasing CBPO staffing levels.

Air, land and sea ports remain woefully understaffed. NTEU is grateful to both the House and Senate Authorization Committees for proposed increases in the number of CBPOs.

NTEU is also grateful to the committee for addressing in H.R. 1648 an equity issue at CBP. Section 501 grants prospective law enforcement officer status and benefits to CBPOs as of March 2003.

Clearly, CBPOs deserve LEO status. But NTEU has concerns that Section 501 will create a two-tier system where CBPOs doing the exact same job will receive different retirement benefits based on when they began their service.

NTEU is working with the committee to try to mitigate this inequity, and we strongly support H.R. 1073, the bipartisan Law Enforcement Officers Equity Act.

This legislation treat all CBPOs as law enforcement officers and include prior service in legacy agencies in the 20-year LEO retirement calculation.

Finally, NTEU strongly supports collective bargaining rights for TSA officers as approved by Congress in H.R. 1 and S. 4.

With that, I look forward to working with this committee on any and all issues that will help to make the Department of Homeland Security more effective and the work environment in which these homeland security officers are trying to do the best possible work for our country—and I would be glad to answer any questions you have. Thank you.

[The statement of Ms. Kelley follows:]

PREPARED STATEMENT COLLEEN M. KELLEY

Chairman Carney, Ranking Member Rogers, I would like to thank the subcommittee for the opportunity to testify on the ongoing employee morale crisis at the Department of Homeland Security (DHS).

As President of the National Treasury Employees Union (NTEU), I have the honor of representing over 150,000 federal employees, 15,000 of whom are Customs and Border Protection (CBP) employees at the Department of Homeland Security. I am also pleased to have served as the representative of NTEU on the DHS Senior Review Committee that was tasked with presenting to then-DHS Secretary Tom Ridge and then-Office of Personnel Management (OPM) Director Kay Coles James, options for a new human resources (HR) system for all DHS employees. NTEU was also a part of the statutorily mandated "meet and confer" process with DHS and OPM from June through August 2004.

It was unfortunate that after two years of "collaborating" with DHS and OPM on a new personnel system for DHS employees that NTEU was unable to support the final regulations when they were announced in 2004. While some positive changes were made because of the collaboration between the federal employee representatives and DHS and OPM during the meet and confer process, NTEU was extremely disappointed that the final regulations fell short on a number of the Homeland Security Act's (HSA) statutory mandates. The most important being the mandates that DHS employees may, "organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them," (5 U.S.C. 9701(b)(4)) as well as the mandate that any changes to the current adverse action procedures must "further the fair, efficient and expeditious resolutions of matters involving the employees of the Department." (5 U.S.C. 9701(f)(2)(C)).

Because the final personnel regulations failed to meet the statutory requirements of the HSA in the areas of collective bargaining, due process and appeal rights, NTEU, along with other federal employee unions, filed a lawsuit in Federal court. On August 12, 2005, the federal district court ruled the labor-management relations and appeals portions of the DHS final personnel regulations illegal and enjoined their implementation by DHS. The court found that the regulations did not provide for collective bargaining or fair treatment of employees as required by the Act. DHS appealed the district court's decision to the U.S. Court of Appeals for the District of Columbia Circuit. In June 2006, the Appellate Court upheld the lower court decision and DHS declined to appeal the ruling to the Supreme Court.

DHS PERSONNEL REGULATIONS ISSUES

The Homeland Security Act requires that any new human resource management system "ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them."

In a number of critical ways, the personnel system established by the Homeland Security Act and the subsequent regulations issued by the Department of Homeland Security (DHS) have been a litany of failure because the law and the regulations effectively gut employee due process rights and put in serious jeopardy the agency's ability to recruit and retain a workforce capable of accomplishing its critical missions.

When Congress passed the Homeland Security Act in 2002 (HSA), it granted the new department very broad discretion to create new personnel rules. It basically said that DHS could come up with new systems as long as employees were treated fairly and continued to be able to organize and bargain collectively.

The regulations DHS came up with were subsequently found by the Courts to not even comply with these two very minimal and basic requirements. Much to consternation, on March 7, 2007, DHS announced that it will put into effect portions of its compromised personnel system. Just a few weeks earlier, DHS outlined plans to move slower on its controversial personnel overhaul, formerly known as MaxHR, but now called the Human Capital Operations Plan. The President's fiscal year 2008 budget calls for only \$15 million to fund the renamed MaxHR personnel plan.

In February of this year, DHS received the lowest scores of any federal agency on a federal survey for job satisfaction, leadership and workplace performance. Of the 36 agencies surveyed, DHS ranked on job satisfaction, on leadership and knowledge management, on results-oriented performance culture, and on talent management. As I have stated previously widespread dissatisfaction with DHS management and leadership creates a morale problem that affects the safety of this nation.

It should be clear to the Committee that the Department of Homeland Security has learned little from these Court losses and repeated survey results and will continue to overreach in its attempts to implement the personnel provisions included in the Homeland Security Act of 2002.

With the abysmal morale and extensive recruitment and retention challenges at DHS, implementing these personnel changes now will only further undermine the agency's employees and mission. From the beginning of discussions over personnel regulations with DHS more than four years ago, it was clear that the only system that would work in this agency is one that is fair, credible and transparent. These regulations promulgated under the statute fail miserably to provide any of those critical elements. It is time to end this flawed personnel experiment.

On March 28, the House Homeland Security Committee acted. The Committee approved an amendment to the fiscal year 2008 DHS Authorization bill that repeals the DHS Human Resources Management System and subsequently approved H.R. 1684, the DHS Authorization legislation, by a vote of 26-0.

Despite Congress' clear intent to stop implementation of the failed DHS Human Resources Management System, DHS continues to persist in implementing these compromised personnel regulations.

NTEU objects to the regulations on the following grounds.

Labor Relations/Collective Bargaining

Under the final personnel regulations, the responsibility for deciding collective bargaining disputes will lie with a three-member DHS Labor Relations Board appointed by the Secretary of the Department of Homeland Security. Senate confirmation will not be required, nor is political diversity required among the Board members. Currently, throughout the federal government, collective bargaining disputes are decided by the Federal Labor Relations Authority (FLRA), an independent body appointed by the President and confirmed by the Senate. A true system of collective bargaining demands independent third party determination of disputes. The final regulations do not provide for that, instead creating an internal system in which people appointed by the Secretary will be charged with deciding matters directly impacting the Secretary's actions. The district court ruled this section of the regulations illegal.

Under the final regulations, not only will management rights associated with operational matters (subjects that include deployment of personnel, assignment of work, and the use of technology) be non-negotiable, but even the impact and implementation of most management actions will be non-negotiable. In other words, employee representatives will no longer be able to bargain on behalf of employees concerning the procedures that will be followed when DHS management changes basic conditions of work, such as employees' rotation between different shifts or posts of duty, or scheduling of days off.

The final regulations further reduce DHS' obligation to collectively bargain over the already narrow scope of negotiable matters by making department-wide regulations non-negotiable. Bargaining is currently precluded only over government-wide regulations and agency regulations for which a "compelling need" exists. The new DHS personnel system would also allow management to void existing collective bargaining agreements, and render matters non-negotiable, simply by issuing a department-wide regulation. The district court ruled this section of the regulations illegal.

A real life example of the adverse effect of the negotiability limitations on both employees and the agency will be in the area of determining work shifts. Currently, the agency has the ability to determine what the shift hours will be at a particular port of entry, the number of people on the shift, and the job qualifications of the personnel on that shift. The union representing the employees has the ability to negotiate with the agency, once the shift specifications are determined, as to which eligible employees will work which shift. This can be determined by such criteria as seniority, expertise, volunteers, or a number of other factors.

CBP Officers around the country have overwhelmingly supported this method for determining their work schedules for a number of reasons. One, it provides employees with a transparent and credible system for determining how they will be chosen for a shift. They may not like management's decision that they have to work the midnight shift but the process is credible and both sides can agree to its implementation. Two, it takes into consideration lifestyle issues of individual officers, such as single parents with day care needs, employees taking care of sick family members or officers who prefer to work night shifts. The new personnel system's elimination of employee input into this type of routine workplace decision-making has had a negative impact on morale.

Due Process and Appeal Rights

One of the core statutory underpinnings of the HSA was Congress' determination that DHS employees be afforded due process and that they are treated in a fair manner in appeals they bring before the agency. In fact, the HSA clearly states that the DHS Secretary and OPM Director may modify the current appeals procedures of Title 5, Chapter 77, only in order to, "further the fair, efficient, and expeditious

resolution of matters involving the employees of the Department.”(5 U.S.C. 9701 (f) (2) (C)). Instead the final regulations undermine this statutory provision in a number of ways.

The final regulations undercut the fairness of the appeals process for DHS employees by eliminating the Merit Systems Protection Board’s (MSPB) current authority to modify imposed penalties. The result is that DHS employees will no longer be able to challenge the reasonableness of penalties imposed against them, and the MSPB will now only be authorized to modify agency-imposed penalties under very limited circumstances where the penalty is “wholly unjustified,” a standard that will be virtually impossible for DHS employees to meet.

The final regulations exceed the authority given in the HSA to the Secretary and OPM Director, by giving the Federal Labor Relations Authority (FLRA) and the MSPB new duties and rules of operation not set by statute. The FLRA and the MSPB are independent agencies, and DHS and OPM are not authorized to impose obligations on either independent agency, or dictate how they will exercise their jurisdiction over collective bargaining and other personnel matters.

In the final regulations, the FLRA is assigned new duties to act as an adjudicator of disputes that arise under the new labor relations system and the regulations also dictate which disputes the FLRA will address and how they will address them.

By going far beyond the statutory parameters of the HSA, and drastically altering the collective bargaining, due process and appeal rights of DHS personnel, the district court ruled these sections of the proposed regulations illegal. The overreaching by DHS in formulating these personnel regulation and the subsequent court ruling leaves CBP employees with little or no confidence that they will be treated fairly by the agency with respect to labor-management relations, appeals or pay by the department.

These regulations include permitting the Secretary with unfettered discretion to create a list of Mandatory Removal Offenses (MRO) that will only be appealable on the merits to an internal DHS Mandatory Removal Panel (MRP) appointed by the Secretary.

They also allow the Secretary to designate a preliminary list of seven potential mandatory removal offenses but are not the exclusive list of offenses. The final regulations also provide that the Secretary can add or subtract by the use of the Department’s implementing directive mechanism and that the Secretary has the sole, exclusive, and unreviewable discretion to mitigate a removal penalty and restricts the Merit System Protection Board (MSPB), to act as an appellate body to review, on a deferential basis, findings of the new Mandatory Removal Panel (MRP). Chapter 12 of Title 5, which sets out jurisdiction, does not authorize this kind of action by the Board and the DHS Secretary and OPM Director are not empowered to authorize it through regulation.

The MSPB Chairman in March 2,2005 testimony before the Subcommittee on the Federal Workforce and Agency Organization of the House Committee on Government Reform stated, “We believe that this mitigation limitation is based on a perception that the Board’s practice is to second guess the reasonableness of an agency’s penalty decision without giving deference to the agency’s mission or the manager’s discretion. In fact, the Board considers a number of relevant factors in determining whether a penalty should be sustained, including whether it is within the range of penalties allowed for the offense in the agency’s table of penalties. **The MSPB only mitigates a penalty if it finds that the penalty clearly exceeds the maximum reasonable penalty.**”

These adverse action and appeals provisions were ruled illegal and a stay was imposed on the rule in 2005 by U.S. District Judge Rosemary Collyer, who said “the regulations put the thumbs of the agencies down hard on the scales of justice in [the agencies’] favor.” The appeals court, however, said the planned changes in adverse action and appeal rights were not yet ripe for a decision since no one has been subject to discipline under them. Still, the appeals court agreed with Collyer’s basic conclusion regarding the lack of fairness. Should DHS put these compromised regulations into place, NTEU can file another court case as soon as an employee is harmed by the new adverse actions and appeals procedures.

Despite the Court rulings, DHS announced on March 7,2007 that they intend to implement provisions of the regulations not specifically struck down by the Courts including these provisions limiting due process and appeal rights.

MaxHR Pay-for-Performance Proposal

While not a part of the lawsuit filed by NTEU and other federal employee representatives, the final regulations as they relate to changes in the current pay, performance and classification systems of DHS employees must be brought to the at-

tention of this subcommittee. While the final regulations lay out the general concepts of a new pay system, they remain woefully short on details.

Too many of the key features of the new system have yet to be determined. The final regulations make clear that the agency will be fleshing out the system's details in issued implementing directives while using an expensive outside contractor that will cost the agency tens of millions of dollars that could be used for additional front line personnel. Among the important features yet to be determined by the agency are the grouping of jobs into occupational clusters, the establishment of pay bands for each cluster, the establishment of how market surveys will be used to set pay bands, how locality pay will be set for each locality and occupation, and how different rates of performance-based pay will be determined for the varying levels of performance.

The House and Senate Appropriations Committees have been extremely thoughtful and deliberative in allocating funds for implementing MaxHR in the fiscal year 2006 and fiscal year 2007 DHS Appropriations bill and the Continuing Resolution for fiscal year 2007. Acknowledging that NTEU-initiated litigation had stalled implementation of portions of MaxHR and in response to request to redirect scarce federal dollars for DHS staffing and programs that benefit the nation's security, the Committee allocated \$29.4 million in fiscal year 2006, \$25 million in fiscal year 2007 and then reallocated \$5 million of that \$25 million to other programs in the fiscal year 2007 Continuing Resolution legislation. These appropriations were well below the President's fiscal year 2006 and fiscal year 2007 budget request.

Because of Congress' actions, DHS outlined plans to move slower on its controversial personnel overhaul and even renamed the discredited MaxHR program to now be called the Human Capital Operations Plan (HCOP). And the President's fiscal year 2008 budget calls for only \$15 million to fund the renamed HCOP personnel plan.

NTEU is especially mindful of the fact that the more radical the change, the greater the potential for disruption and loss of mission focus, at a time when the country can ill-afford DHS and its employees being distracted from protecting the security of our homeland. However, before any changes are made to tie employees' pay to performance ratings, DHS must come up with a fair and effective performance system.

CBP employees got a preview of this in 2005 and 2006 as to how DHS will administer a new pay-for-performance program when it terminated the negotiated Awards and Recognition procedures and unilaterally imposed its own awards system. At the conclusion of the fiscal year 2005 awards process, CBP, contrary to the parties' seven year practice of publicizing the names and accomplishments of award recipients as determined by a joint union-management committee, embarked on a policy of refusing to reveal the results of its awards decisions, the amount of the awards, and the accomplishments that resulted in the granting of the award so that employees in the future could emulate these accomplishments and too win an award.

Not only were the unilaterally decided award results not publicized, but NTEU Chapters report that some employees were specifically told not to reveal that they had received an award. CBP has refused to provide NTEU at the national level with the results of its awards decisions. NTEU has informed DHS that CBP's strenuous efforts to hide its awards decisions make a mockery of promise that any pay-for-performance system it implements will be transparent and trusted by its employees.

NTEU has received a favorable arbitration decision concluding that CBP terminated the joint union-management Awards and Recognition program and unilaterally imposed its own awards system. The arbitrator ordered CBP to return to the prior joint awards process and to rerun the fiscal year 2005 awards process using the negotiated procedure. CBP has delayed the ultimate resolution of this issue by appealing the arbitrator's decision to the FLRA asking the Authority to overturn the arbitrator's decision "in order to improve employee morale." And DHS utilized the outlawed unilateral Awards process again this year.

Transportation Security Administration Personnel System

The Aviation and Transportation Security Act (ATSA), enacted in November 2001, removed screening responsibility from air carriers and the private sector contractors who conducted screening for them and placed this responsibility with the Transportation Security Administration (TSA). As a result, TSA hired and deployed about 55,000 federal passenger and baggage Transportation Security Officers (TSO) formerly known as screeners—to more than 400 airports nationwide based largely on the number of screeners the air carrier contractors had employed. Since August 2002, TSA has been prohibited by statute from exceeding 45,000 full-time equivalent positions available for screening.

Congress' intention in federalizing the screening workforce was to replace a poorly trained, minimum-wage private contract screening workforce with professional, highly trained security screening officers. Congress, however, included in ATSA, Section that codified as a note to 49 44935, the following:

"Notwithstanding any other provision of the law, the Under Secretary of Transportation for Security may employ, appoint, discipline, terminate, and fix the compensation, terms and conditions of employment of Federal service for such a number of individuals as the Under Secretary determines to be necessary to carry out the screening function of the Under Secretary under section 44901 of title 49, United States Code. The Under Secretary shall establish levels of compensation and other benefits for individuals so employed."

This section permitted the establishment of a federal personnel management system that is unique to TSOs. The Federal Labor Relations Authority construed Section 111(d) as granting unfettered discretion to TSA to determine the terms and conditions of employment for federal screener personnel. Accordingly, a directive issued by then Under Secretary James Loy on January 8, 2003 barred screeners from engaging in collective bargaining.

The goal of providing screeners with adequate pay, benefits and training and thereby creating a professional and dedicated TSO workforce has been undermined by capricious and arbitrary management and the denial of the most basic workplace rights.

To date, basic management programs have been massive failures. The training and certification program, performance appraisal system, and health and safety programs all lack accountability and therefore lack credibility with employees. This lack of oversight and accountability has resulted in one of the highest voluntary attrition rates in the entire federal government as well as the highest workplace injury rates.

For example, the TSA Performance Accountability and Standards System (PASS) remains one of the largest concerns for TSA employees. Let us consider the implementation of the Agency's pay for performance system at JFK International Airport in 2006 as an example. Under the PASS system, employees are rated at four (4) levels—Role Model, exceeds expectations, meets expectations or did not meet expectations. Employees could receive merit raises if they attained ratings at the two higher levels. Only 1 % to 2% of all at JFK received ratings at the highest level and only about 20% of the total number of JFK TSOs received any merit raise at all. In other words, 80% of the screener workforce at JFK received no merit raise in 2006.

Furthermore, allegations of favoritism and cronyism surround the system because there is no meaningful way for employees to challenge their ratings. They fear that if they speak up they will be fired—and they have been. If they were to challenge their dismissal before the Agency's Disciplinary Board, they know they have a statistically insignificant chance of winning—perhaps one in twenty. The lack of Agency accountability in its personnel systems fosters a culture of employee fear that in turn leads to unreported management incompetence. This culture of fear threatens the security of our country.

The 110th Congress has recognized the failings of the TSA personnel system that prohibits collective bargaining and the House of Representatives in H.R. 1 and the Senate in S. 4 voted to repeal Section 111(d) of ATSA. Reversing this unequal treatment of TSOs will help restore morale and strengthen mission and personnel dedication at the Department of Homeland Security.

Both MaxHR and PASS pay systems lack the transparency and objectivity of the General Schedule. If the proposed system is implemented, employees will have no basis to accurately predict their salaries year to year. They will have no way of knowing how much of an annual increase they will receive, or whether they will receive any annual increase at all, despite having met or exceeded *all* performance expectations identified by the Department. The for-performance" element of the proposal will pit employees against each other for based increases. Making DHS employees compete against each other for pay increases will undermine the spirit of cooperation and teamwork needed to keep our country safe from terrorists, smugglers, and others who wish to do America harm.

One thing is clear. The proposed pay systems will be extremely complex and costly to administer. A new bureaucracy will have to be created, and it will be dedicated to making the myriad, and yet-to-be identified, pay-related decisions that the new system would require. That is a concern for taxpayers. New management systems cost money—the Pentagon has spent \$65 million so far on the new National Security Personnel System—and most experts say such systems succeed only when employees perceive them as fair and credible. Fortunately, taxpayer exposure for the discredited MaxHR system has been limited because Congress responded to the

Court's action and limited appropriations for the discredited MaxHR program. Now it is time for Congress to repeal the entire DHS personnel program and cut all funding.

IMPEDIMENTS TO MISSION ACCOMPLISHMENT

The second part of my testimony addresses DHS staffing and personnel policies that have deleteriously affected CBP employee morale and threaten the agency's ability to successfully meet its critical missions.

OPM 2004 and 2006 Federal Human Capital Survey Results

In 2004, the OPM survey of federal employees revealed that employees rated DHS out of 30 agencies considered as a good place to work. On key areas covered by the survey, employees' attitudes in most categories were *less positive* and *more negative* than those registered by employees in other federal agencies. Employee answers on specific questions revealed that 44% of DHS employees believe their supervisors are doing a fair to a very poor job; less than 20% believe that personnel decisions are based on merit; only 28% are satisfied with the practices and policies of senior leaders; 29% believe grievances are resolved fairly; 27% would not recommend DHS as a place to work; 62% believe DHS is an average or below average place to work; only 33% believe that arbitrary action, favoritism, and partisan political action are tolerated; over 40% are not satisfied with their involvement in decisions that affect their work; 52% do not feel that promotions are based on merit; and over 50% believe their leaders do not generate high levels of motivation and commitment. On the other hand, most employees feel there is a sense of cooperation among their co-workers to get the job done.

The 2006 Federal Human Capital Survey ratings were released in January 2007 and not much has changed. Nearly 10,400 Homeland Security employees participated in the survey and gave the department rock-bottom scores in key job satisfaction, leadership and management areas in relation to 35 other agencies in the survey. Of the 36 agencies surveyed, DHS ranked on job satisfaction, on leadership and knowledge management, on results-oriented performance culture, and on talent management.

The results of this OPM survey raise serious questions about the department's ability to recruit and retain the top notch personnel necessary to accomplish the critical missions that keep our country safe. According to OPM, 44 percent of all federal workers and 42 percent of non-supervisory workers will become eligible to retire within the next five years. If the agency's goal is to build a workforce that feels both valued and respected, the results from the OPM survey clearly show that the agency needs to make major changes in its treatment of employees. And widespread dissatisfaction with DHS management and leadership creates a morale problem that affects the safety of this nation.

Staffing Shortages at the Ports of Entry

One of the most significant reasons for low morale at CBP is the continuing shortage of staff at the 317 POEs. The President's fiscal year 2008 budget proposal requests \$647.8 million to fund the hiring of 3000 Border Patrol agents. But, for salaries and expenses for Border Security, Inspection and Trade Facilitation at the 317 Ports of Entry (POEs), funding is woefully inadequate.

The President's fiscal year 2008 budget calls for an increase of only \$8.24 million, for annualization of 450 appropriated in the fiscal year 2007 DHS Appropriations Conference Report. NTEU is extremely grateful that the Appropriations Conference Report included funding for an additional 450 CBPOs in the fiscal year 2007 DHS Appropriations bill. In that bill, the House and Senate Appropriations Conferees agreed to "provide \$181,800,000 for an additional 450 CBP officers and critical non-intrusive inspection equipment and fully fund the budget request for all cargo security and trade facilitation programs within CBP."

On March 15, 2007, the House Appropriations Committee approved an Emergency Supplemental Appropriations bill for fiscal year ending September 30, 2007, that among other things, "recommends an additional \$100,000,000 to improve significantly the ability of CBP to target and analyze US-bound cargo containers, achieve a capacity to screen 100 percent of such cargo overseas, and double the number of containers that are subject to physical inspections. The funding would support hiring up to 1,000 additional CBP Officers, Intelligence Analysts and support staff, to be located at Container Security Initiative locations overseas, U.S. ports of entry, or the National Targeting Center."

The Senate Appropriations Committee approved similar language in its version of the Supplemental on March 22, 2006. NTEU again is extremely grateful to the Committee for funding the hiring of additional CBPOs at sea ports and land ports. In addition, the SAFE Port Act requires CBP to hire a minimum of 200 additional CBP Officers in fiscal year 2008 for ports of entry around the nation.

CBP Understaffing at Airports

First let me comment on the severe security risks our nation takes by understaffing. Customs and Border Protection has two overarching and sometimes conflicting goals: increasing security while facilitating trade and travel. NTEU has noted the diminution of secondary inspection in favor of passenger facilitation at primary inspection since the creation of the Department of Homeland Security. Why has there been this decrease in secondary inspections? NTEU believes that it is because of a decrease in CBP staffing levels. According to the Government Accountability Office (GAO) Report (GAO-05-663), *International Air Passengers Staffing Model for Airport Inspections Personnel Can Be Improved*, there is much evidence that airports are experiencing staffing shortages.

There has been expressed to NTEU and Congress considerable concern about clearing international passengers within **45 minutes** which is being done at the expense of specialized secondary inspection. Prior to 9/11 there was a law on the books requiring INS to process incoming international passengers within 45 minutes. The Enhanced Border Security and Visa Protection Act of 2002 repealed the 45 minute standard, however "it added a provision specifying that staffing levels estimated by CBP in workforce models be based upon the goal of providing immigration services within 45 minutes (page 12-13)." See footnote #1.

It has also come to attention that the U.S. Travel and Tourism industry has called for a further reduction in passenger clearance time to **30 minutes**. The and industry's recently announced plan, called "A Blueprint to Discover America," includes a provision for "modernizing and securing U.S. ports of entry by hiring customs and border [protection] officers at the top 12 entry ports to process inbound visitors through customs within 30 minutes." This **CANNOT** be achieved at current staffing levels without jeopardizing security.

On pages 16-19, GAO states "The number of CBP staff available to perform primary inspections is also a primary factor that affects wait times at airports. . . For example, CBP and airline officials in Houston stated that the increase in the number of inspection stations at George Bush Intercontinental Airport, in combination with the addition of new CBP officers has reduced passenger wait times. . . However, the benefit of adding inspection stations has been limited because, as of June 2003, CBP has not increased staffing levels."

Regarding the building of new inspection stations, GAO states, airline officials said that these projects were planned, funded, and completed with the expectation that CBP would increase staff for the new facilities as passenger volume increased. However, CBP officials stated that the agency is not legally or contractually required to allocate new staff when inspection facilities are constructed or expanded and the agency is to make no commitment implicitly or explicitly regarding the future staffing levels in approving new inspection facility design proposals."(page 21)

NTEU is very grateful that the Congress in its fiscal year 07 DHS appropriations conference report directed CBP to submit by January 23,2007 a resource allocation model for current and future year staffing requirements as specified by the House and Senate Appropriations Conference Report. Specifically, this report should assess optimal staffing levels at all land, air and sea ports of entry and provide a complete explanation of methodology for aligning staffing levels to threats, vulnerabilities, and workload across all mission areas."(See September 28,2006 Congressional Record page H7817) It is understanding that, to date, the Appropriations Committee has not received this report from CBP.

Congress also mandated CBP to perform a Resource Allocation Model in Section 402 of the SAFE Port Act. This report is due June 2007. NTEU will look to Congress to continue oversight in reviewing how CBP is conducting staff allocations.

It is instructive here to note that the former U.S. Customs Service's last internal review of staffing for Fiscal Years 2000-2002 dated February 25,2000, known as the Resource Allocation Model or R.A.M., shows that the Customs Service needed over 14,776 new hires just to fulfill its basic mission-and that was before September 11. Since then the Department of Homeland Security was created and the U.S. Customs Service was merged with the Immigration and Naturalization Service and parts of the Agriculture Plant Health Inspection Service to create Customs and Border Protection and given an expanded mission of providing the first line of defense against terrorism, in addition to making sure trade laws are enforced and trade revenue collected.

One Face at the Border Initiative:

On September 2,2003, CBP announced the misguided One Face at the Border (OFAB) initiative. The initiative was designed to eliminate the pre-9/11 separation of immigration, customs, and agriculture functions at US land, sea and air ports of entry. In practice the OFAB initiative has resulted in diluting customs, immigration

and agriculture inspection specialization and quality of passenger and cargo inspections. Under OFAB, former INS agents that are experts in identifying counterfeit foreign visas are now at seaports reviewing bills of lading from foreign container ships, while expert seaport Customs inspectors are now reviewing passports at airports. The processes, procedures and skills are very different at land, sea and air ports, as are the training and skills sets needed for passenger processing and cargo inspection.

It is apparent that CBP sees its One Face at the Border initiative as a means to “increase management flexibility” without increasing staffing levels. For this reason, Congress, in the Immigration and Border Security bill passed by the House in the 109th Congress, HR 4437, section 105, requires the Secretary of Homeland Security to submit a report to Congress “describing the tangible and quantifiable benefits of the One Face at the Border Initiative. . . outlining the steps taken by the Department to ensure that expertise is retained with respect to customs, immigration, and agriculture inspection functions. . . .”

Also, the Homeland Security Appropriations Committee added report language to the fiscal year 2007 DHS Appropriations bill that, as part of One Face at the Border Initiative, directs “CBP to ensure that all personnel assigned to primary and secondary inspection duties at ports of entry have received adequate training in all relevant inspection function.” And, GAO will be issuing a report in the next few months evaluating the One Face at the Border Initiative and its impact on legacy customs, immigration and agricultural inspection. **NTEU urges the Committee to take action to ensure that inspection specialization is not further diminished by the misguided One Face at the Border Initiative.**

Trade Operations Staffing

CBP has the dual mission of not only safeguarding our nation’s borders and ports from terrorist attacks, but also the mission of regulating and facilitating international trade; collecting import duties; and enforcing U.S. trade laws. In 2005, CBP processed 29 million trade entries and collected \$3.14 billion in revenue.

Section 412(b) of the Homeland Security Act of 2002 (P.L. 107–296) mandates that “the Secretary [of Homeland Security] may not consolidate, discontinue, or diminish those functions. . . performed by the United States Customs Service. . . on or after the effective date of this Act, reduce the staffing level, or reduce the resources attributable to such functions, and the Secretary shall ensure that an appropriate management structure is implemented to carry out such functions.”

When questioned on compliance with Sec. 412(b) then-CBP Commissioner stated in a June 16, 2005 letter to Representative that “While overall spending has increased, budget constraints and competing priorities have caused overall personnel levels to decline.” The bottom line is that DHS is non-compliant with Section 412(b) of the HSA. As stated in the June 16, 2005 letter, “CBP employed 1,080 non-supervisory import specialists in fiscal year 2001 and 948 as of March 2005.”

NTEU continues to have concerns that most recent data shortchanges how many trade operations personnel should be in place to be compliant with Section 412(b). For example, most recent data shows 892 full-time, plus 21 part-time Import Specialists—913 total employed by CBP. In the Resource Allocation Model issued by the U.S. Customs Service in 2000, there were 1249 Import Specialists employed by the federal government to ensure trade compliance. The same Resource Allocation Model calls for the hiring of 240 additional Import Specialists by 2002 to maintain trade workload.

At a hearing in the last Congress, CBP Commissioner stated that they need only 984 Import Specialists to be in compliance with Section NTEU challenges that assertion and Congress in the SAFE Port Act of 2006 calls for a new Resource Allocation Model to be completed by the Agency. GAO has also been commissioned by the SAFE Port Act to conduct a study to determine if the Agency trade function is indeed being maintained. Both these reports are due later this year. NTEU asks the Committee to carefully scrutinize these studies in determining CBP trade function funding needs. Customs revenues are the second largest source of federal revenues that are collected by the U.S. Government. Congress depends on this revenue source to fund federal priority programs. The Committee should be concerned as to how much DHS non-compliance with Section of the HSA costs in terms of revenue loss to the U.S. Treasury.

NTEU also represents the highly skilled trade attorneys at the CBP Office of International Trade, Regulations and Rulings (ORR) division. ORR attorneys take part in every phase of the negotiation and implementation of all free trade agreements—from participating in negotiating sessions through issuing binding rulings regarding the proper interpretation of the CBP regulations implementing the agreement. Even though these attorneys have negotiated a popular employee telework

program, CBP management refuses to fully implement the program so that all eligible attorneys are able to participate. Continuity of governance concerns alone should put DHS on the forefront of encouraging telework programs for their non-uniformed employees.

DHS also has not embraced a student loan repayment program as authorized by Congress. Many ORR attorneys are burdened by mortgage-sized student loans from law school. New attorneys who struggle to meet their education debt obligations on level government salaries often leave the public sector after a couple of years for higher paying salaries. As a result, ORR has effectively become a spring training camp for private sector law firms seeking experienced customs trade attorneys. Both the telework and student loan repayment programs have shown proven success in recruiting and retaining federal workers. Congress should inquire as to why these programs that also contribute to higher employee morale are not personnel priorities at DHS.

Law Enforcement Status

The most significant source of consternation for CBPOs is the lack of law enforcement officer (LEO) status for CBP Officers. LEO recognition is of vital importance to CBPOs. CBPOs perform work every day that is as demanding and dangerous as any member of the federal law enforcement community, yet they have long been denied LEO status.

Within the CBP there are two classes of federal employees, those with law enforcement officer status and its benefits and those without. Unfortunately, CBPOs and Canine Enforcement Officers fall into the latter class and are denied benefits given to other federal employees in CBP.

CBPOs carry weapons, and at least three times a year, they must qualify and maintain proficiency on a firearm range. CBPOs have the authority to apprehend and detain those engaged in smuggling drugs and violating other civil and criminal laws. They have search and seizure authority, as well as the authority to enforce warrants. All of which are standard tests of law enforcement officer status.

Every day, CBPOs stand on the front lines in the war to stop the flow of drugs, pornography and illegal contraband into the United States. It was a legacy Customs Inspector who apprehended a terrorist trying to cross the border into Washington State with the intent to blow up Los Angeles International Airport in December 1999.

A remedy to this situation exists in an important piece of legislation involving the definition of law enforcement officer introduced in this Congress, H.R. 1073, the Law Enforcement Officers Equity Act of 2007. NTEU strongly supports this bipartisan legislation introduced by Representatives Bob Filner (D-CA) and John (R-NY) which has 68 cosponsors to date. This legislation would treat CBPOs and legacy Customs Inspectors and Canine Enforcement Officers as law enforcement officers for the purpose of 20-year retirement.

On March 28, 2007, the House Homeland Security Committee approved H.R. 1684 that included Section 501, a provision that grants LEO status to CBPOs as of the creation of CBP in March 2003. CBPOs are extremely grateful for this recognition of their law enforcement activities at CBP. Unfortunately, Section 501 does not recognize previous law enforcement service in the legacy agencies that were merged to create CBP. Therefore, in order for CBPOs with legacy service to qualify for the enhanced LEO retirement benefit, they must serve an additional 20 years starting in March 2003.

This will result again in a two-tier system at CBP, where younger and newly hired CBPOs will be able to qualify for the LEO retirement benefit and older CBPOs working side-by-side will not. This is because many CBPOs will not be able to serve these additional 20 years needed to qualify, especially if they already put 10, 15 or 20 years as a legacy employee. Under Section 501, the LEO clock starts on March 2003. March 2023 is when the first CBPOs will be able to retire at 50 years with 20 years with the 1.7% benefit. There is no retroactive coverage in this provision. This will have a detrimental effect on employee morale.

The Committee is sympathetic to this unfortunate consequence of Section 501 and is working with NTEU on hybrid-LEO coverage proposals that would mitigate this result.

Section 501 is a start. It is a breakthrough in that the House Homeland Committee recognizes that CBPOs should have LEO coverage and NTEU members are very appreciate of the Committee's efforts.

CONCLUSION

Each year, with trade and travel increasing at astounding rates, CBP personnel have been asked to do more work with fewer personnel, training and resources. The more than 15,000 CBP employees represented by the NTEU are capable and com-

mitted to the varied missions of DHS from border control to the facilitation of trade into and out of the United States. They are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs and our economy safe from illegal trade.

These men and women deserve more resources and technology to perform their jobs better and more efficiently. These men and women also deserve personnel policies that are fair. The DHS personnel system has failed utterly and should be repealed by the full Congress. Continuing widespread dissatisfaction with DHS management and leadership creates a morale problem that affects the safety of this nation.

The American public expects its borders and ports be properly defended. Congress must show the public that it is serious about protecting the homeland by fully funding CBP staffing needs, extending LEO coverage to all CBPOs, reestablishing CBPO inspection specialization at our 317 and repealing the compromised DHS personnel system.

I urge each of you to visit the land, sea and air ports of entry in your home districts. Talk to the CBPOs, canine officers, and trade entry and import specialists there to fully comprehend the jobs they do and what their work lives are like.

Again, I would like to thank the committee for the opportunity to be here today on behalf of the 150,000 employees represented by NTEU to discuss these extremely important federal employee issues.

Mr. CARNEY. Thank you, President Kelley.

I now recognize Secretary-Treasurer Cox to summarize his statement for 5 minutes.

STATEMENT OF J. DAVID COX, NATIONAL SECRETARY-TREASURER, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. COX. Thank you, Mr. Chairman and members of the committee. On behalf of the more than 600,000 federal employees we represent, including 60,000 at DHS, I want to thank you for the opportunity to testify today.

Before I begin, however, I would like to thank the committee for its extraordinary leadership on behalf of DHS workers with regard to MaxHR and TSA collective bargaining rights.

OPM survey results came as no surprise to AFGE. We are painfully aware of low morale at DHS, and we know what has caused it.

Merging 22 agencies and 170,000 employees would have been an enormous challenge under the best of circumstances, but trying to do so while orchestrating a radical upheaval in the personnel system that employees experienced as hostile and punitive was a recipe for failure.

In fact, because of politics and bad decisions, the merger produced fear, suspicion and anxiety at every time that everyone should have been focused on the agency's mission and on integration.

Members of the committee are no doubt aware of the troubled history of DHS and its new personnel system.

Like everyone else, we were gratified when DHS announced that it was backing away from much of the notorious MaxHR, including changing the name, since it was so closely associated with fear, intimidation, delays and chastisement.

But no sooner did they tell us they were dropping MaxHR than, without warning, they announced they were going to implement agency-wide some of the most controversial elements regarding adverse actions and appeals.

This behavior on the part of management has had a predictable impact on the already dismal level of morale at the agency.

The Homeland Security Act allowed DHS to change its appeals procedures, but they did so in a way that drastically undermined the employees' process of rights, due process rights.

The DHS system tries to prevent the MSPB from mitigating a penalty it considers too harsh or out of proportion to the offense by saying it can only act when the punishment is wholly without justification, a new legal standard for DHS workers that may never be met.

And these are not just the views of AFGE. They are the views of the federal judge who ruled that DHS's new system nullified collective bargaining and defied Congress's requirement that the new system be fair. Again, is it any wonder that morale is low in this environment?

DHS's insistence on implementing a patently unfair system, despite the court's warnings, makes all DHS employees understandably wary and uncertain, especially about the new system for so-called performance management.

Since the system is linked to pay, its negative impact on employee morale is especially large. In this new system, a worker's failure to meet just one single expectation requires a rating of unacceptable, which in turn requires him or her to be fired, demoted or reassigned.

But expectations in the new system is so vaguely defined that it could mean anything at all, including things that were never given to the employee in writing.

Again, is it any wonder that morale is low, in an environment where anything can be used to denigrate an employee's performance and where managers don't have to spell out what is expected?

My written testimony addresses DHS initiatives such as One Face at the Border, a terrible mismanaged attempt to combine immigration, customs and agricultural inspection into one job that robs the agency of benefit of expertise in these crucial areas in favor of cross training that runs a mile wide and an inch deep.

My written statement also describes our union's continuing efforts to win union rights for transportation security officers at TSA, who have overwhelmingly demonstrated their interest in union representation and whose rights have been wrongfully denied by the administration.

I discuss the agency's illegal efforts to privatize jobs for food service workers in ICE detention centers that our union is trying to reverse.

And finally, I have discussed the tragic undermining of the Federal Emergency Management Agency, FEMA, through politicization, privatization, budget reductions and the decision to de-link emergency preparedness from emergency response when DHS's merger was designed.

In a separate attached document, I have also addressed the disaster in the making at the Federal Protective Service where the administration plans to force the agency to focus itself exclusively in the one area where it has demonstrated failure, contract oversight.

The plan is essentially to eliminate the position of the LPS officer and have the agency overseeing an enormous unaccountable army of private security guards.

This concludes my statement. I will be happy to answer any questions the committee may have.

[The statement of Mr. Cox follows:]

PREPARED STATEMENT J. DAVID COX

INTRODUCTION

Chairman Carney and Subcommittee Members: My name is J. David Cox, and I am the Secretary Treasurer of the American Federation of Government Employees, AFL-CIO (AFGE). On behalf of the more than 600,000 federal employees represented by AFGE, including 60,000 who work in the Department of Homeland Security (DHS), I thank you for the opportunity to testify here today on the current serious problems at DHS, and to highlight some recent, positive developments that make us hopeful for the future of DHS workers. AFGE applauds the leadership of Committee Member Sheila Jackson Lee and members of the Committee on Homeland Security for reporting H.R. 1684 to the full House with provisions that repeal the remaining elements of the so-called MAXHR program that relate to employee appeal rights and performance management goals. This is particularly significant as DHS has recently stated its intention to implement both sections of its regulations despite the likelihood that they will be overturned in federal court. The legislation also restores statutory authority for collective bargaining rights because the DHS regulations establishing a new collective bargaining system have been overturned by the courts. AFGE believes that H.R. 1684 will greatly strengthen our nation's overall homeland security by recognizing the contribution of the men and women on the front lines and providing the resources necessary to ensure that they are the best trained, best-equipped border protection force in the world today.

HUMAN CAPITAL SURVEY OF FEDERAL AGENCIES

For the last two years the Human Capital Survey of Federal Agencies conducted by the Office of Personnel Management (OPM) has revealed profound problems with employee morale at DHS. In both years the agency came in last or close to last of all federal agencies for employee satisfaction, adequate resources, leadership, working conditions and many other categories. DHS employees arguably have the lowest morale of any group of federal employees.

This does not come as a surprise to AFGE. Bringing together 22 different federal agencies and 170,000 employees to form one new homeland security organization was a daunting task. Under the best of circumstances, forging a unified department would require good communications, a major investment in training, a respect for employees, and the time and patience to do the job right.

Instead, DHS chose to develop a new personnel system, radically different from the one employees had known for years. While the various agencies and their employees were going through the hard work and anxiety of merging their distinct cultures and identities into a new Department of Homeland Security, DHS embarked on a massive upheaval of the pay, performance, classification, labor relations, adverse actions, and appeals systems. This was a prescription guaranteed to increase the fear, suspicion, and anxiety of employees and their managers at a time when the focus should have been on increasing the dialogue and understanding among the various groups being brought together.

During involvement in the DHS Design Team and the Senior Review Committee, our participation in the Meet and Confer process, and our subsequent interactions with the Department, we urged the Department to clearly articulate the problems it was trying to fix and how the new personnel system (called would correct those problems. Instead, we have heard only platitudes about "flexibilities," lies about unions and collective bargaining, and a "trust us" approach to pay-for-performance.

In his recent testimony before the House Oversight and Government Reform Subcommittee on Federal Workforce, Postal Service, and the District of Columbia, Professor Jeffrey Pfeffer of Stanford University Graduate School of Business spoke about the woeful lack of reliance on evidence in management practices. Professor Pfeffer said:

. . . I want to make five points as succinctly as possible. . . First, organizations in both the public and private sector ought to base policies not on casual benchmarking, on ideology or belief, on what they have done in the past or what they are comfortable with doing, but instead should implement evidence-based management. Second, the mere prevalence or persistence of some management practice

is not evidence that it works -there are numerous examples of widely diffused and quite persistent management practices, strongly advocated by practicing executives and consultants, where the systematic empirical evidence for their ineffectiveness is just overwhelming. Third, the idea that individual pay for performance will enhance organizational operations rests on a set of assumptions. Once those assumptions are spelled out and confronted with the evidence, it is clear that many -maybe all -do not hold in most organizations. Fourth, the evidence for the effectiveness of individual pay for performance is mixed, at best -not because pay systems don't motivate behavior, but more frequently, because such systems effectively motivate the wrong behavior. And finally, the best way to encourage performance is to build a high performance culture. We know the components of such a system, and we ought to pay attention to this research and implement its findings.

During our involvement with the Design Team phase of developing the regulations, we saw first-hand the lack of real research or attention to the evidence. We and other members of the Design Team read articles, interviewed experts, and went on site visits. There was no attempt, however, to analyze the results or prepare options for the new system based on the evidence we found. AFGE was deeply disappointed when the final DHS regulations were published because they ignored most of the work of the Design Team, most of the results of the focus groups with employees, and most of the comments the unions and over 3,500 others submitted. Instead, they reflected an ideological mindset that had predetermined the outcome.

We were gratified earlier this year when DHS informed us that it was backing away from much of its earlier plans regarding MAX^{HR}—in fact, it was no longer going to use that name—because MAX^{HR} had become associated with fear, delays, poor planning, and chastisement by the courts. The new system was to be called the Human Capital Operational Plan (HCOP). Chief Human Capital Officer Marta Brito Pérez told us that the Department was not interested in pursuing the pay initiatives at this time for most employees. Instead, DHS was going to test this with a pilot program. At the very beginning of this whole process we urged DHS not to try to implement a radical and untested system, but instead to try a pilot program first so we could all learn from what worked and what didn't and thus create a better system. We are glad they are finally coming around.

Ms. Pérez told us that DHS was going to move ahead with a new performance management system and HCOP, which has five main goals:

1. Hire and Retain a Talented and Diverse Workforce
2. Create a DHS-Wide Culture of Performance
3. Create High-Quality Learning and Development Programs for DHS Employees
4. Implement DHS-Wide Integrated Leadership System
5. Be a Model of Human Capital Service Excellence

AFGE would like to believe that DHS is moving toward what sounds like a more positive agenda. We think that increasing staffing at DHS and working to keep current dedicated employees and offer them training and career development opportunities are objectives the department should have focused on from the start. We would like to help make this happen and hope that DHS is as committed as we are to developing the workforce that is so vital to carrying out the Department's mission. But we have deep concerns.

Shortly after our recent meeting with DHS, and without any advance warning, much less opportunity for discussion, we received notice of the department's intention to implement the provisions of MAX^{HR} regarding adverse actions and appeals. While DHS is saying it wants to recruit and retain, train and develop its employees, it appears to be in a rush to implement an extraordinary reduction in the basic employee protections that have been in place for decades.

The Homeland Security Act gave the Secretary and OPM Director authority to modify the appeals procedures of Title 5, but only in order "to further the fair, efficient and expeditious resolution of matters involving the employees of the Department." Instead, the final regulations virtually eliminated due process by limiting the current authority of the Merit Systems Protections Board (MSPB), arbitrators and adjudicating officials to modify agency-imposed penalties in DHS cases to situations where the penalty is "wholly without a new standard for DHS employees that will rarely, if ever, be met.

DHS has claimed that it created a new personnel system that ensured collective bargaining, as required by Congress. But the Court has ruled that it has not ensured collective bargaining, but eviscerated it. DHS has claimed that its regulations are fair, as required by Congress. But the Court has ruled that they are not fair, because they would improperly prevent the MSPB mitigating a penalty it considered to be too harsh or out of proportion to the offense.

As you know, AFGE has previously challenged these very provisions in court, and the Court agreed in no uncertain terms that the provisions were patently unfair: as Judge Collyer explained, “the Regulations put the thumbs of the Agencies down hard on the scales of justice in [the agency’s] favor.” The Court of Appeals did not disagree, but merely found that the issue was not yet ripe for adjudication. The Department should not take encouragement in the fact that an employee must be victimized by these unfair proposals before the Court can award a remedy, which will surely include back pay and attorney fees.

DHS has the lowest morale in the federal government, when it needs to be the highest. Deputy Secretary Jackson said the top leaders took notice and would do something about it. Chief Human Capital Officer Marta Pérez was quoted by the press as saying the new human resources plan would be reassuring to employees. What part of imposing an illegal and unfair adverse action system is reassuring?

The insistence by DHS to implement a patently unfair system despite the court’s warnings about its serious shortfalls makes us wary about its intentions in the other areas of its human capital plan.

DHS plans to implement a new performance management system. AFGE commented on earlier versions of the Performance Management Directive, but has not seen the final version. We found the supposedly new and improved system to be surprisingly similar to those systems currently in place in the federal and private sectors. It is not particularly modern or innovative and does not convince us that it will be more credible to employees or more able to accurately evaluate performance than the current systems.

The new system is to be automated. We expressed our concerns about potential disparities between employees who have easy access to computers and can check their records and add their accomplishments whenever they wish and employees who patrol the borders or our ports and rarely have a chance to sit at a computer and deal with these issues. The same holds true for their managers, some of whom can take full advantage of a computerized system, while others are out in the field, and rarely at a desk.

In the new system, failure to meet a single expectation requires a rating of “Unacceptable,” which, in turn, requires an employee to be fired, demoted or reassigned.

But “expectation” in the new system is so vaguely defined that it could mean anything at all, including things that were never given to the employee in writing. For example, the Directive says that, “. . . all of the diverse expectations that may apply need not be communicated in writing.” Creating an environment in which anything can be used to denigrate an employee’s performance and in which managers are not held accountable for clearly spelling out what is expected, is hardly the answer to low morale and problems with recruiting and retaining good employees.

DHS employees, in common with other federal employees, say that favoritism and poor management are big problems in their workplaces and they don’t have confidence in their agency’s performance management system. The new DHS system is unlikely to change that and can only make things worse if the department attempts make major changes in employees’ pay based on it.

“ONE FACE AT THE BORDER”

Customs and Border Protection (CBP) has attempted to establish what it calls “One Face at the Border.” The idea was to take the experience and skills of former Immigration and Naturalization Service, Customs and Agriculture employees and combine them into one position. In reality, this has been difficult to do—each discipline is very complex—and combining them threatens to weaken expertise in all three. In fact, we are starting to see CPB Officer positions offered with specialties in, for immigration law—a tacit recognition of the need for the experience and education of these legacy organizations’ position descriptions.

Although on paper DHS advocates for “one face” at the border, many of its actual personnel practices continue to emphasize the differentiation between “legacy INS” and “legacy Customs” officers. Instead of raising CBP employees to the best of the various benefits they enjoyed before, DHS has created a confusing morass of procedures and policies that take away income and rights without replacing them with anything of comparable value. Although legacy agriculture, immigration and customs inspectors were promised “cross-training” when they were converted to the new CBP officer position, such training never fully materialized for most CBP officers. From the beginning, DHS training has emphasized the immigration inspection function over agriculture and customs inspection functions. A 2006 Government Accountability Office (GAO) report found that agricultural inspection has suffered greatly under “One Face at the Border” due to a decrease in agricultural inspections at points of entry leading to an increased risk of U.S. agriculture to foreign pests and disease. According to the GAO report there has been a significant decrease of

as much as 20 percent at some points of entry, and a majority of agriculture inspection specialists interviewed stated that they were doing fewer inspections and that there are insufficient numbers of agriculture specialists to carry out inspections.

GAO's findings are supported by research conducted by the National Border Patrol and National Homeland Security Councils of AFGE. A clear majority (64%) of border protection personnel say they are just "somewhat" or "not really" satisfied with the tools, training, and support they need to be effective at stopping potential terrorists from entering the country and at protecting the country terrorist threats. A majority of CBP inspectors said "One Face At the Border" has had a negative impact on their ability to do their jobs. AFGE restates its opposition to the flawed "One Face at the Border" program, which has resulted in decreased immigration inspections and agricultural inspections at points of entry, and calls for the program to be repealed.

CBP Officers have just "One Face" at the border, but they are acutely aware that they are not treated equally, nor do they share the same benefits. For example:

1. **Foreign Language Award Program (FLAP)**—AFGE recently filed two grievances on behalf of employees who are not receiving additional pay for having foreign language skills. The Foreign Language Award Program guarantees foreign language proficiency pay for employees who use language skills on the job in languages other than English. While many officers from legacy Customs have been awarded foreign language pay, the majority of legacy INS officers have not.

2. **Administratively Uncontrollable Overtime (AUO)**—When DHS consolidated different groups of employees it re-classified former INS Senior Inspectors as CBP Officers and eliminated their right to a lump sum payment for working overtime. Although the Senior Inspectors' duties have remained the same, their pay has been drastically reduced.

These are just a couple of examples of the differences CBP employees continue to see in their workplaces, despite their being told they are "One Face on the Border." Senator Dianne Feinstein (D-CA) recently introduced S. 887, a bill to transfer the function of agricultural inspection at all U.S. entry points from the Department of Homeland Security to the U.S. Department of Agriculture (USDA). The bill recognizes the expertise of the 1,800 agriculture inspection specialists who inspect plants and animals entering at U.S. entry points for disease and insect infestation that if undetected, could place U.S. agriculture and the public at great risk. AFGE strongly supports S. 887, and calls upon Congress to pass legislation that will repeal "One Face at the Border" and transfer the remaining immigration and customs inspection functions back to their respective directorates in DHS.

TRANSPORTATION SECURITY ADMINISTRATION (TSA)

Thanks to the leadership of the House Homeland Security Committee, 45,000 Transportation Security Officers (TSOs) are quite close to achieving the rights wrongfully denied them five years ago. Following September 11, 2001, Congress passed and President Bush signed the Aviation and Transportation Security Act (ATSA) creating the TSA and federalizing the duties of screening passengers and baggage at airports. Although this was a prime opportunity to establish a highly-trained, well-paid and fully-empowered professional public workforce, TSA management instead took ATSA as a blank check to create its own management system irrespective of the widely accepted protections afforded to most workers by the rest of the federal government. Without enforcement of labor protection laws that ensure: 1) that workers are treated fairly, 2) that adequate workplace health and safety measures are in place to minimize injuries; and 3) that workers are protected from retaliation when they blow the whistle on security breaches, national security is jeopardized, not enhanced.

Through broad judicial and MSPB interpretation of ATSA, TSA was given the ability to prevent independent oversight of decisions affecting employees, leaving workers with no alternative but to seek remedies from the very management that created the problem in the first place. The power of TSA management regarding TSOs is almost totally unchecked.

A few examples of the pervasiveness and extent of these negative decisions include:

1. Refusal to honor the First Amendment right of freedom of association, resulting in screeners being fired for simply talking about the union and posting and distributing AFGE union literature during break times. Although TSA officially "permits" TSOs to join the union, the reality has been that TSOs have suffered retaliation for doing so, including termination.

2. TSA has refused to hold itself accountable to the Rehabilitation Act and has therefore not made reasonable accommodations for workers with disabilities, in-

cluding diabetes and epilepsy. This results in discrimination against workers on the basis of their disability.

3. Although Congress clearly indicated that the veterans' preference honored by the rest of the federal government also applied to TSOs, the TSA has refused to apply veterans' preference in promotion and reduction-in-force decisions. Moreover, even though other federal agencies apply veterans' preference to both those who retired from the military and those who leave active duty, TSA has redefined what it means to be a veteran—only retired military personnel are awarded whatever veterans' preference TSA management chooses to give.

4. TSOs have been disciplined for using accrued sick leave benefits for documented illnesses.

5. TSOs have been paid thousands of dollars less than promised at the time of hire, because screeners do not have an employment "contract" with the government, and therefore, no contract protections.

Denials of the meaningful ability to enforce the most basic worker rights and persistent inadequate staffing have taken their toll on the TSO workforce. TSOs are subject to extensive mandatory overtime, penalties for using accrued leave and constant scheduling changes because of understaffing. Another result is that TSA has among the highest injury, illness, and lost time rates in the federal government. In fiscal year 2006, TSA employees' injury and illness rates were close to far higher than the 5% average injury and illness rate for all federal employees. The overall TSA attrition rate is more than 10 times higher than the 2.2% attrition rate for federal civilian employees and upwards of 40% at some major airports. TSO base pay did not change between 2002 and 2007, and when TSA did implement a base salary increase, close to two-thirds of TSOs did not qualify for the pay raise under "PASS" system. This continuing mistreatment of the TSO workforce hampers the ability of TSOs to do their jobs and public safety is jeopardized. After more than five years of second-class treatment despite the first-class job they perform every day protecting the flying public, it is time for the President to sign legislation passed by the Congress to grant TSOs working at our nation's airports the same collective bargaining and other labor rights enjoyed by other TSA and DHS employees.

Despite the pressing need to fully staff our nation's airports with sufficient numbers of TSOs to provide security and expedite travel, the Bush administration has set an artificial cap of the number of full-time TSOs nationwide. The current 45,000 cap has not only led to longer lines, it has also had a great adverse impact on TSOs, who face constant mandatory overtime and increased risk of injury while they try to do their jobs with too few people. With very strong bipartisan votes, during the Congress the Senate twice supported legislation introduced by Senator Frank Lautenberg (D-NJ) to remove the TSO cap and allow TSA to hire the number of full-time TSOs necessary to provide air safety. The idea of hiring enough people to get the job done should not be political or ideological. It is our hope that the House of Representatives will follow the lead of the Senate and send a bill to President Bush ensuring that TSA can hire the number of TSOs necessary to keep air travel safe.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

Ten years ago, if you saw the word "FEMA" in the news, it was usually something complimentary involving rapid response to the Oklahoma City bombing or prompt efforts to reduce the impact of hurricanes and other natural disasters. Back then, FEMA was an example of a federal government agency that worked. Now it is a different story. Since Hurricane Katrina, FEMA has become associated with mismanagement and the abuse of power and resources given it by Congress. The exemplary government agency of the 1990s has become an example of government incompetence in 2007.

One primary cause of deterioration was its placement inside the Department of Homeland Security (DHS). In the spring of 2003, the DHS leadership began a systematic purge of FEMA, ridding the agency of some of its most highly qualified emergency management personnel and tools:

1. Long-time FEMA managers with years of experience in disaster mitigation, preparedness, response and recovery were pushed aside, and their work was re-assigned to inexperienced DHS staff and to contractors.
2. Young and inexperienced political appointees were brought in and placed over highly skilled career executives throughout the agency, including at the most senior levels.
3. The Preparedness function was taken out of FEMA, breaking up the traditional partnership within FEMA of emergency preparedness, prevention, response and recovery.

4. FEMA's budget was cannibalized by DHS with much of the agency's funding provided to other DHS departments. As experienced FEMA staff retired or quit in disgust, their jobs were left unfilled as the funding for those positions were taken out of FEMA and given to DHS. By 2005, nearly one-third of full-time jobs were vacant.

After the Katrina debacle, many experienced FEMA professionals believed that such management problems would be rectified and influence over FEMA would be decreased. Unfortunately, the exact opposite has happened: in the past year and a half, experienced FEMA personnel who did their best to salvage the situation during Katrina are being systematically replaced by the same types of minimally-experienced DHS managers who caused the Katrina management problems in the first place. In many cases, it appears that DHS is bypassing federal civil service rules to place their selected managers in key positions throughout FEMA. More and more senior positions at FEMA are being filled by outside hires and appointments, while experienced FEMA staffers are regularly passed over for promotion into those jobs. Many of the new hires seem to be private contractors with prior military or Coast Guard backgrounds. While some of them have experience within their respective fields, they do not appear to have the broad national emergency management experience necessary for the positions they have been given.

This is not the way to rebuild FEMA's emergency management capability. This not the way to restore the morale of FEMA's experienced emergency management staff. AFGE is hopeful that the recently enacted Post-Katrina Emergency Management Reform Act of 2006 will help to revitalize FEMA. This new law establishes FEMA as a distinct entity in DHS similar to the U.S. Coast Guard and U.S. Secret Service, thereby preventing transfers of FEMA assets, authorities, personnel and funding. The new law also transfers most Preparedness functions back to FEMA, strengthening FEMA's ability to effectively prepare and respond to future disasters.

But we remain extremely concerned that, despite the new law, experienced FEMA employees will continue to be trumped by DHS political appointees and managers who clearly do not understand national-level emergency management.

LAW ENFORCEMENT RETIREMENT REFORM

AFGE is extremely gratified to see that the 110th Congress is beginning to move on an issue that has long been overlooked: law enforcement retirement coverage for CBP officers at DHS. Legislation has been included in the House Homeland Security Authorization bill that would finally offer this option to thousands of deserving, hard-working federal law enforcement officers.

At the same time, we believe that as this bill makes its way through Congress, serious consideration should be given to the other law enforcement officers of the federal government who deserve these benefits. Law enforcement officers working for the Federal Protective Service, the Department of Veterans' Affairs and a small number of other federal agencies continue to receive discriminatory treatment under the current proposed legislation. Yet they have full arrest authority, wear a federal law enforcement badge and carry a gun.

Never before has the job of federal law enforcement been more important than it is today. Maintaining a high-quality, professional workforce requires that the federal government compete with hundreds of state and local law enforcement agencies, almost all of whom provide early retirement and other benefits to police officers. It is time we recognize the contribution these men and women make on the line, every day and give them the equality of benefits they deserve.

IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE)

I want to bring to your attention the plight of 56 nutrition services employees at ICE detention centers in Texas, California, Arizona, and Florida. In May 2006, ICE announced an A-76 privatization review for these employees. Almost every step of these reviews violated the policies and procedures of the A-76 privatization process. The privatization review ran longer than the time allowed by OMB rules; the accuracy of the in-house bid (the only chance the employees had of keeping their jobs) is highly suspect—even according to ICE officials—and the review resulted in an award of a contract to an Alaska Native Corporation with no competitive bidding process. In other words, the privatization review process, which is billed by the Administration as a way to make efficient use of taxpayer dollars, could not possibly have met this goal at ICE.

The most repugnant part of this story is that the employees have yet to be told when they will lose their jobs, what other jobs might be available for them at ICE, or any other details that may help them prepare for their futures.

Another privatization review was announced in May 2006 for 19 facilities support employees at the same detention centers. That review was cancelled months ago, but no one in ICE management remembered to tell the employees. Until last week,

those 19 employees were still coming to work each day wondering if they still had a job.

CONCLUSION

Chairman Carney, AFGE would like to thank you and the members of the Homeland Security Committee not just for your attention to matters of great concern to DHS workers, but also for the legislative action taken in the past four months to address those concerns. After years of debate, legislation granting collective bargaining and other employment rights, and repealing MAXHR and "One Face at the Border" has been reported out of the Homeland Security Committee, and in the case of TSO rights, has been passed by both Houses of Congress. Our DHS members understand the importance of their jobs, and are committed to doing all they can to keep the U.S. safe. It is little to ask that they be treated with fairness, dignity and respect as they continue to do so.

AFGE looks forward to working together with the Chair and the Committee to ensure the security of DHS workers and our country.

Mr. CARNEY. Thank you, Mr. Cox.

I now recognize Mr. Stier to summarize his testimony for 5 minutes.

STATEMENT OF MAX STIER, PRESIDENT AND CEO, PARTNERSHIP FOR PUBLIC SERVICE

Mr. STIER. Thank you very much, Chairman Carney, Congressman Rogers, Chairman Thompson, Congresswoman Clarke and Congressman Perlmutter.

I very much appreciate being invited to testify this morning. It is particularly well-timed given the fact that we are releasing our best places to work rankings at noon today, which I must apologize I will have to leave for.

And obviously, anyone here who would like to come see the full rankings is most welcome, particularly any reporters. I have plenty of room in my cab.

But it is a complete ranking that you will see just a piece of a piece of it in the brochure, the Best Places brochure. If you go to the Web site, it really is a most comprehensive look at our federal government and what employees are saying about their work environment.

It is really important both for external audiences to understand better what is happening inside our government, but also equally important for the managers inside government to help explain what they need to focus on to create a more engaged workforce.

The best places to work rankings obviously—I will give you a quick preview of a little bit of information that we will be sharing about the Department of Homeland Security.

And as you have heard from a number of folks already, it is distressing. Our best places to work rankings are based upon the Federal Human Capital Survey but are a complete look at over 222 subcomponents of government, along with the 30 large agencies and 31 small agencies.

So a quick snapshot. The Department of Homeland Security ranks 29 out of 30 of the large agencies, and I know what you are probably thinking, but you can't hear who is at the bottom unless you come to our press conference.

We ranked 222 subcomponents. Six of the 13 DHS subcomponents are among the 15 lowest. It is not just that it is bad, but it is actually getting worse.

In some places—for example, FEMA—the score dropped by 13 percent since 2005, placing it 211 out of 222 subcomponents.

The DHS headquarters, which ranks 215 out of 222, scored the largest drop of over 29 percent from 2005. And these are very sobering numbers.

So how did we get here? And I want to focus on just three primary issues, although there are obviously—it is a complex brew of different questions.

First, the mega factors that Mr. Rogers and others have referenced already. But mergers are incredibly hard.

And this one has got to be the hardest of all mergers possible, because not only are we involved in a merger that requires combining the 22 entities and 180,000 employees, but it is really the equivalent of driving 90 miles an hour down the highway and trying to retool your engine at the same time, because the actual creation of the department was caused by external events that are obviously incredibly challenging—the war on terror, natural events like Hurricane Katrina—which makes it all the more difficult to be trying to create a new agency in that kind of context.

Second, our best places to work ranking says that there are three major drivers that, if the department focused on these issues, would have the most impact on their employees.

Number one, and perhaps not surprisingly, and this is government-wide, better leadership, strong leadership.

Second, the match between the employee's skills and the mission of the organization, which, as Ms. Pérez already stated, is high at the Department of Homeland Security relative to their other scores, but it still again is a major driver that needs increased attention.

And third and finally, strategic management of the resources. And this is actually different from the other agencies across government, where the work-life balance factor is more important.

Number three, the department was given a blank check in the legislation that we talked about earlier, and they overdrew their account. And more on this later.

So where do we go from here right now? We want to make five points, summarizing from the testimony. First, we can't stay with the status quo of the general schedule.

I am not aware of a single successful large organization that is doing business the same way that it did business 60 years ago.

Along those lines, the general schedule has to change. It was created in 1949 when times were very different, when the needs of government were very different, when the workforce was very different, and we need a different system.

Second, Congress needs to help DHS establish a fair, credible and transparent performance management system that both give clear goals to employees and make meaningful distinctions in employee performance.

And very importantly, it has to be designed in collaboration with the department's employees and their representatives.

Number three, Congress should allow the department to continue its pursuit over time of more market and performance-sensitive pay systems.

But this should not happen until the system that is already in place is working and has been certified by an appropriate entity.

We also need to make sure that appropriate investment is being made into selecting, training and managing highly competent managers, supervisors and H.R. professionals.

Fourth, Congress has to closely monitor the department's investment in training and development. We need to make sure that the funds are there and that they are fenced off in creative ways in order to give the department officials and the employees the tools that they need.

And finally, we need metrics. The annual report that this committee did is an important first step. The human capital survey is important.

But we need to specialize a set of metrics so that you have the information and the department has the information over time about what is happening. You can't manage what you don't measure. This is really important stuff.

Thank you very much.

[The statement of Mr. Stier follows:]

PREPARED STATEMENT OF MAX STIER

Chairman Carney, Representative Rogers, Members of the Subcommittee, thank you very much for the opportunity to appear before you today. I am Max Stier, President and CEO of the Partnership for Public Service, a nonpartisan, nonprofit organization dedicated to revitalizing the federal civil service by inspiring a new generation to serve and transforming the way the federal government works. We appreciate your invitation to discuss the human capital challenges facing the Department of Homeland Security and the morale of the Department's employees.

The Partnership has two principal areas of focus. First, we work to inspire new talent to join federal service. Second, we work with government leaders to help transform government so that the best and brightest will enter, stay and succeed in meeting the challenges of our nation. That includes all aspects of how the federal government manages people, attracting them to government, leading them, supporting their development and managing performance; in short, all the essential ingredients for forming and keeping a world-class workforce.

An Urgent Need for Action

Americans need effective government, and the key to good government is good people. The report of the 9/11 Commission said it best: "[T]he quality of the people is more important than the quality of the wiring diagrams."

Today, our nation faces challenges of unprecedented complexity—from combating terrorism and competing in a global marketplace to dealing with an aging population at home. These new challenges require new skills from our federal workforce. Yet, at this critical time, a large number of experienced federal workers will soon retire, resign or otherwise leave the government, and insufficient interest in and knowledge about federal service leaves us with an inadequate pipeline of talent to replace these losses. Aggressive and immediate action is needed to strengthen the federal civil service, match new skills to current challenges, and build a government that the public deserves and the times demand.

The federal government's human capital crisis defies easy solutions and will require a comprehensive strategy. The federal government will live up to its potential in serving the American people only when our best and brightest answer the call to federal service and enjoy a work environment that empowers them to perform at their best. There are significant human capital challenges facing the Department of Homeland Security, and the federal government as a whole, regarding its ability (or inability) to attract and recruit the talent it needs and to manage the federal workforce so that talented employees stay and succeed in achieving desired results.

It is widely accepted that while the current General Schedule pay and classification system established in 1949 may have served the government well for many years, it is no longer good enough to attract and retain the best and brightest -and we know this from listening to federal employees themselves. In the Office of Personnel Management's (OPM) 2006 Federal Human Capital Survey of 221,000 civil servants, only 30 percent agreed that "In my work unit, differences in performance

are recognized in a meaningful way.” Talented people at all levels—from new college graduates to seasoned professionals—look to work in environments that reward and recognize effort and results. Our *Best Places to Work in the Federal Government* project, which I will discuss later in my testimony, confirms that, compared to workers in the private sector, federal employees are more likely to say that they like the work that they do, that their coworkers cooperate to accomplish a job and that they are given opportunities to improve their skills. Yet, this same comparison reveals that the federal government lags behind the private sector in recognizing employees for a job well done.

Generally speaking, federal employees are not motivated primarily by pay. As everyone here can attest, many public servants can make more money in the private sector—but they have chosen government service. Again referring to our *Best Places to Work* rankings, pay and compensation rank well below leadership, teamwork, how well an employee’s skills are matched to agency mission and work-life balance as the key drivers of job satisfaction for federal workers. And satisfied employees are more engaged and better able to contribute to agency missions. In fact, the preponderance of research on effective organizations in both the private and public sectors indicates that employee engagement is a key driver of mission success. Yet many federal agencies lack the kind of performance management systems that create an environment in which excellence is both recognized and rewarded.

We also note that the current federal pay system is *not* market sensitive, despite the existing statutory merit system principle that calls for federal pay to be set “with appropriate consideration of both national and local rates paid by employers in the private sector.”

Department of Homeland Security Personnel Reform: A Brief Overview

The Department of Homeland Security (DHS) was granted major exemptions from Title 5 requirements, including in the areas of pay and performance, when it was created under the Homeland Security Act of 2002. DHS designed a new human resources (HR) system, dubbed “MaxHR” that included a pay-banded approach to pay and was intended to be more sensitive to performance than the existing General Schedule system. DHS, however, also designed new approaches to labor-management relations and employee appeals which were challenged in court by employee unions. The U.S. Court of Appeals for the District of Columbia ruled that the planned labor-relations provisions were inconsistent with the law. [See Appendix A]

Most recently, DHS has announced their intent to “move beyond and to focus on broader HR issues and initiatives under a “Human Capital Operational Plan” (HCOP). This broader HCOP appears to us to be a move in the right direction by DHS. The plan will focus on improved hiring and retention, creating a “culture of performance” based on performance management plans, and enhanced training and development. While there are still plans to move toward a more market- and performance-sensitive pay system, DHS is moving at a slower pace than originally planned in an attempt to better establish its underlying performance management system. We also note that the House Committee on Homeland Security has voted to repeal the authorization for DHS to pursue an alternative personnel system and that the final direction of the Department’s reform efforts depends on the outcome of Congress’s deliberations.

Best Places to Work in the Federal Government

The old adage that “what gets measured, gets changed” still holds true. And when it comes to the federal workforce, not enough is getting fully measured. Data available on the state of the federal workforce is not systematically organized, evaluated or disseminated in a way that is meaningful to all of the key audiences.

The value of indicator systems as an effective tool for driving reform has been widely documented. The Partnership has taken a step toward creating national indicators through our *Best Places to Work in the Federal Government* rankings, prepared in collaboration with American University’s Institute for the Study of Public Policy Implementation. The Best Places build upon data Federal Human Capital Survey to provide a comprehensive assessment of employee satisfaction across the federal government’s agencies and their subcomponents.

Employee satisfaction and commitment are two of the necessary ingredients in developing high-performing organizations and attracting key talent to meet our nation’s challenges. The *Best Places to Work* are a key step in recognizing the importance of employee satisfaction and ensuring that it is a top priority of government managers and leaders.

Since the first rankings were released in 2003, they have helped create much-needed incentives to focus on key workforce issues and provided managers and leaders with a roadmap for boosting employee engagement.

The rankings also provide Members of Congress and the general public with unprecedented insight into federal agencies and what the people who work in those agencies say about leadership, mission and effectiveness. Ideally, the *Best Places* can aid Congress in fulfilling its oversight responsibilities by highlighting the federal government's high-performing agencies and raising a red flag when agencies suffer from conditions that lead to low employee engagement and poor performance.

DHS: A Best Place to Work?

Mr. Chairman, later today the Partnership will release the 2007 of the *Best Places to Work in the Federal Government*. This year's rankings include 61 federal agencies and 222 agencies subcomponents. We rank each agency on an overall satisfaction index score, as well as in ten individual workplace categories: employee skills/mission match, leadership, work/life balance, teamwork, pay and benefits, training and development, support for diversity, strategic management, performance-based rewards and advancement, and family-friendly culture and benefits. Our index scores are computed based on data that comes from federal employees themselves through their responses to Federal Capital Survey.

The Subcommittee is right to raise questions about employee morale at the Department of Homeland Security. As the Department's performance in the *Best Places* rankings shows, there is reason for concern.

In 2005 and again this year, the Department as a whole ranks second-to-last—i.e., in 29th place—among large agencies. The Department is the lowest ranked agency in eight out of ten workplace categories.

Of the eight DHS subcomponents that were ranked in 2005, only the Transportation Security Administration (TSA) and the Bureau of Citizenship and Immigration Services (BCIS) increased their overall scores; the other six (Headquarters, Federal Emergency Management Agency, Coast Guard, Immigration and Customs Enforcement, Customs and Border Protection and the Secret Service) declined.

Our analysis of the *Best Places* data shows that, within DHS, three workplace categories are most closely related to overall satisfaction. They are, in order, leadership, employee match, and strategic management.¹ For 2007, the Department as a whole showed improvement in two of these three key drivers—strategic management (up 3.3 percent) and effective leadership (up 2.3 percent). DHS also improved in the performance-based rewards and advancement dimension, by 5.8 percent. DHS scores were down in the other seven workplace categories.

For the 2007 *Best Places* rankings, DHS is divided into 13 subcomponents. The subcomponent data provides a fascinating look at where things are going well, or not going well, in the Department. Some of the more troubling data points for the DHS subcomponents include the following:

- Six DHS subcomponents (the Defense Nuclear Detection Agency, FEMA, the Bureau of Immigration and Customs Enforcement, Headquarters, TSA and the Office of the Undersecretary for Science and Technology) are among the 15 lowest ranked federal subcomponents.
- TSA is the lowest ranked DHS subcomponent for two of the three wide key-drivers: leadership and balance.
- FEMA's score dropped by about 13 percent from 2005, placing it 211 th out of 222 federal subcomponent organizations.
- DHS headquarters ranks 215th among all subcomponents. Its score dropped 29 percent from 2005, the largest decline of any federal subcomponent.

The messages coming from DHS are not all disappointing, however. There is some encouraging news in the performance of several DHS subcomponents:

- Three DHS subcomponents—U.S. Visit, the Coast Guard and the Federal Law Enforcement Training Center (FLETC)—are ranked among the top 50 subcomponents. Two of the three (U.S. Visit and the FLETC) are new to the in 2007.
- U.S. Visit, the Coast Guard, the Secret Service and the FLETC scored above the government-wide mean in both leadership and how well employee skills are matched to agency mission. U.S. Visit in particular had a very distinguished score in the leadership category; it ranked seventh out of 222 subcomponents.
- Five DHS subcomponents (FLETC, Office of Inspector General, Coast Guard, Secret Service, and BCIS) scored above the government-wide mean in the area of balance.
- TSA, one of the largest DHS subcomponents and the lowest ranked federal subcomponent in 2005, enjoyed a six-percent increase and no longer ranks last. TSA improved in 2007 in two of the three workplace categories linked most

¹This differs from the government-wide results, where work/life balance—not strategic management—was the third most influential driver of employee satisfaction.

closely to DHS employee satisfaction and engagement -leadership (up 5.6 percent) and strategic management (up 6.2 percent). In employee match, TSA stayed about even with its 2005 score.

Mr. Chairman, these data points combine to tell a compelling story about the Department of Homeland Security. The Department is fortunate to have a workforce that is committed to the Department and to its mission; yet, varying degrees of weakness in all ten workplace categories keep the Department and its employees from performing at their best.

Working in the Department's favor is the addition of Marta Brito Pérez as the Department's new Chief Human Capital Officer. We believe that Ms. Pérez understands the challenges facing the Department and is working to address them in a strategic and comprehensive way. Under Ms. Pérez's guidance, and with the support of the Department's senior leaders and this Subcommittee, we think there is reason to believe that DHS can improve its overall *Best Places* ranking.

The Way Forward

Making major changes in federal human resources systems, especially in pay and performance management, involves culture change as well as system change. Such change is inevitably slow and iterative. The changes that have been attempted at the Department of Homeland Security have had dubious success, especially in terms of employee acceptance. We note, however, that a number of the federal agencies that have been allowed to operate under alternative personnel systems such as SEC, NASA and GAO have consistently been rated by their employees as among the top ranked "*Best Places to Work*."

We believe that moving DHS back to the 1949-era General Schedule would likely have greater costs than benefits. None of the alternative personnel systems have been "magic bullets," but over time most have been improvements over what existed previously and the affected organizations would not welcome a return to the previous state. The challenge, therefore, is to effectively move forward here with personnel management practices that are designed in partnership with Department employees and their representatives and that will benefit the Department and its employees alike.

Recommendations

The Partnership offers the following recommendations regarding the Department of Homeland Security's personnel management:

1. Congress should encourage and support Department efforts to hire and retain top talent, create a performance-based culture, create learning and development opportunities for DHS employees and improve leadership.
2. Congress should also support Department efforts to establish a fair, credible and transparent performance management system that makes meaningful distinctions in employee performance and is designed in collaboration with the Department's employees and employee representatives. A well-established performance management system that is accepted by DHS employees is a critical first step toward more performance-oriented compensation systems. The Department's stated intent to address weaknesses in their performance management system, and to address the low percentage of positive responses from their employees to the 2006 Federal Human Capital Survey before implementing a performance-based pay prototype, are noteworthy goals.
3. Congress should allow the Department to continue its pursuit over time of more market-sensitive pay systems that also allow more flexibility in recognizing employee performance, classifying jobs and setting initial pay—subject to the caveat in recommendation 4. The flexibilities that have been tested successfully in federal demonstration projects or in federal agencies with special pay flexibilities provided by Congress should serve as a guide in this regard.
4. Congress should require that any DHS alternative pay system must meet certain requirements, and be certified by OPM, GAO, or another entity specified by Congress, *before* it is implemented. The requirements for certification should include (a) a fair, credible and transparent performance appraisal system, (b) a means of ensuring employee involvement, acceptance and ongoing feedback, and (c) a mechanism for ensuring the system is adequately resourced.
5. A key criterion for the success of any human capital management system is the presence of highly competent managers, supervisors, and HR professionals. Congress should ensure that DHS is making the necessary investment to select, train, and effectively manage the individuals in these key occupations.

6. Congress should ensure that a DHS personnel system operate under government-wide ground rules. These ground rules currently include and should continue to include:

- Adherence to the Merit System Principles in 5 U.S.C. § 2301(b) and the Prohibited Personnel Practices in 5 U.S.C. § 2302(b);
- Collaboration with and involvement of employees and managers;
- Collective bargaining with employee representatives via negotiated agreements;
- Due process rights for employees; and,
- Adherence to veterans' preference.

7. Congress should closely monitor the Department's investments in training and development. Too often, these accounts are among the first to be cut, when the fact is we need to be investing more in training and development, particularly when we are demanding more of managers and implementing new personnel flexibilities. A specific amount of funding sufficient to this task should be allocated and fenced in.

8. To assist Congress in the exercise of its oversight responsibility and to respond to any concerns that current or future HR reforms might actually detract the ability of DHS to accomplish its missions, the Partnership recommends the development and use of a set of metrics for the specific purpose of evaluating personnel management and reforms over time. Such metrics will only be of value if the Congress, the Department and other key stakeholders agree on a common set of measures to inform future decision-making. The following principles should apply in this regard:

- a. The key to effective oversight will be looking at the *right* measures, not the *most* measures.
- b. Metrics should include qualitative as well as quantitative measures.
- c. Metrics should not impose an undue collection and analysis burden.
- d. Metrics should be used to inform decision-making and not simply to monitor compliance/non-compliance.

The Partnership has recently completed a thorough review of human capital metrics in federal, state and local governments, as well as the leading practices of top companies in the Partnership's *Private Sector Council (PSC)*, that serve as a useful guide to the Subcommittee in its oversight capacity.

Based on this research and of the principles mentioned above, we recommend that the Subcommittee work with DHS to collect and analyze **metrics in seven areas: recruitment, retention, skills gaps, performance distinctions, performance culture, leadership and implementation**. The Subcommittee could gain additional insight from the data by looking at these metrics by specific demographic group—e.g. minority employees or a particular age group—as compared to the workforce as a whole.

Recruiting

To assess whether they are winning the war for talent, leading organizations are collecting information about *new hire rates*—e.g., the ratio of new employees hired to the number of planned hires for critical skills—and **new hire quality**—e.g., the number of planned hires for critical skills—and **new hire quality**—e.g., monitoring Federal Human Capital Survey results about the skills of new hires.

Retention

To measure whether DHS is retaining high-performing employees with critical skills, we recommend that the Subcommittee look at the **attrition rates of high performers** compared to overall attrition and the **attrition rates of critical skill employees** compared to overall attrition.

Skills Gaps

DHS should be working to close the gap between the **actual numbers of employees with a critical skill compared to the number needed**. Ideally, the Subcommittee will monitor the results over time to assess whether the gap is decreasing.

Performance & Rewards

A modern compensation system should make meaningful distinctions between employees based on their performance. The Subcommittee should monitor **employee evaluations**—e.g. the numbers of employees reaching the various levels of performance—and **employee bonuses and rewards**—e.g. the number of employees receiving various levels of pay and bonuses.

Performance Culture

Congress enacted a provision in 2003 requiring an annual survey of employees across the federal government. The survey should prove to be an invaluable window into employees' views of their agencies' management practices.

The survey questions specified in recent regulations issued by OPM include several questions about supervision and pay that constitute a **Performance Culture Index** with items such as:

- Promotions in my work unit are based on merit.
- In my work unit, steps are taken to deal with a poor performer who cannot or will not improve.
- In my work unit, differences in performance are recognized in a meaningful way.

The Subcommittee can compare the results of components participating in alternative personnel systems with the results of components operating under the General Schedule system. The Subcommittee and the Department will want to monitor the results over time to track whether the "performance culture" is increasing.

Leadership

In any organization, it is vital that supervisors and senior leaders treat employees fairly, resolve disputes in a reasonable manner, and have the respect of their employees. Members of the Subcommittee can evaluate leadership effectiveness by using another set of questions the Federal Human Capital Survey. The Partnership has created an **Index for Effective Leadership**, which we use in our *Best Places to Work* rankings. This index includes items such as:

- I have a high level of respect for my organization's senior leaders.
- Complaints, disputes or grievances are resolved fairly in my work unit.
- In my organization, leaders generate high levels of motivation and commitment in the workforce.

The Subcommittee can compare the Department's scores on these questions to scores across government and the private sector.

Implementation—Pulse Surveys

Finally, it is important to examine real-time data on the success of alternative personnel systems and their implementation. Pulse surveys are short surveys going to a small, representative sample of employees used to provide leaders with real-time information on critical issues. DHS could administer pulse surveys semi-annually to examine employee opinions on system understanding of the new system, satisfaction with the new system, et cetera. This data will allow DHS to improve the rollout of its personnel system based on employee feedback.

Conclusion

Mr. Chairman, Representative Rogers, Members of the Subcommittee, we thank you again for the opportunity to share our views on the personnel challenges facing the Department of Homeland Security and our recommendations for the best way forward. We look forward to being of assistance to this Subcommittee and to the Congress as you consider the future of the Department and the men and women who work to ensure the safety of the American people.

Mr. CARNEY. Thank you, Mr. Stier, for your testimony.

And I want to thank all the witnesses for their testimony. I am sure it will help move the ball forward on this issue.

I remind each member now that he or she will have 5 minutes to question the panel.

And I will now recognize myself for questions.

Ms. Pérez, you said MaxHR was limited and that HCOP is broader. I don't think the employees disliked MaxHR because it was too narrow.

What objectionable parts of MaxHR have been discontinued?

Ms. PÉREZ. Okay. This is actually extremely important, and I make sure that it is well-understood.

Human resources management across any organization, public or private, requires that the company, the organization, pay attention to certain elements, like make sure that it has the right talent, make sure it is developing the talent, that it is doing what it can to retain the talent.

So all of those things are things that are extremely important, and things that were not necessarily addressed specifically in the MaxHR initiative.

What MaxHR did, and what I think—and it is important—is that it said the department needs to pay attention to the way that it evaluates its employees and the way that it compensates its employees. And that is a good thing. And we just heard Max Stier allude to that.

We are keeping the area of evaluating our employees. The areas where Max did not address—it didn't say we are bad, it didn't say anything; it just didn't address—were in the area of hiring, retention, training and development, building leadership capacity, building rotational programs, rotational assignments for executives that we think will make them stronger.

All of those things were not addressed in the MaxHR regulations. What we have done in the operational plan is identify a set of priorities that say specifically we need to make sure we have the right talent in place, and we are going to address that through our recruitment practices.

We need to make sure that we have diversity in the organization, and we are going to do that through our recruitment practices.

We need to make sure our employees have the talent, the skills that they need, and we want to increase our training.

Those are areas that were not addressed in MaxHR that we think are fundamental to a well-run organization.

Mr. CARNEY. Thank you.

Ms. Kelley, would you care to comment on this?

Ms. KELLEY. I would. In NTEU's view, MaxHR just had a name change. The department has not indicated that they intend to change any of the things that have been tagged and earmarked as inappropriate in MaxHR.

The operational plan that they describe may be broader, but in my view it is also at about a 10,000-mile view and is not doing anything to address the issues that we are discussing here today and that we have all identified as morale issues.

So I have told the members who I represent to not believe for a minute that MaxHR is dead, that it just has a new name.

Mr. CARNEY. Mr. Cox?

Mr. COX. Colleen and I will certainly agree upon that. You know, call it a different name. It is the same thing.

And you know, I look at the TSA, the Transportation Security officers at the airport. Their pay system, I think, is a classic example of where MaxHR may be trying to go.

They do not get the general cost of living adjustments. They only get the locality pay. And then everything is based upon bonuses, which rarely happen.

You know, I would encourage the committee to request the data, to look exactly at how these employees are paid, how they get bonuses, how they are actually compensated.

But many of them are now working for almost the same amount of money they were working for 4 years and 5 years ago, and we all know the cost of living, the general operation of life, is certainly costing more than it was 5 years ago.

Most people want some type of cost of living adjustment, and to not have their salary increased—some type of bonus that is solely subjective to just whether a supervisor likes you or dislikes you.

Mr. CARNEY. Thank you.

Mr. Stier, do you agree with President Kelley that performance-based awards should be open, transparent and understood by rank-and-file employees?

Mr. STIER. Oh, absolutely. No question about that. And I think obviously the starting point, before you tie money to anything, is making sure you have a system of appraisal that has all those attributes, and that employees believe it, because without that, it doesn't work.

Mr. CARNEY. Okay, thank you.

Ms. Pérez, I have one question, on this round at least, one final for this round.

In your testimony, you pointed to the fact that DHS is only 4 years old and that studies have shown reorganizations of this nature take 5 years to 7 years.

My question is where is DHS on this 5-year to 7-year scale. Are we really 4 years into progress?

Ms. PÉREZ. I don't know whether we are 4 years into the progress. I will tell you that a significant progress has been made.

And specifically, when the survey was done in 2006, our new performance management system that has all the attributes that we have talked about—transparency, communication with employees, better trained managers—all of those things that are so important and fundamental to an organization's success was not in place.

It began the training in the middle of 2006. We now have 14,000 managers trained, again, expanding the training to our employees as well. So that area we are doing very well on.

And the two things that we are doing relative to the Federal Human Capital Survey—doing focus groups, doing more meetings, enhancing our Web sites, better communication, better training for our leaders—all of those things, I think, are well on their way to achieving the kind of integration the department and the administration envisioned when it created homeland security.

Are we three or 4 years into it? I am not quite sure, except to tell you that the initiative, the commitment from the secretary, from everyone, all the leadership at the department, the accountability—we have actually put it in the performance evaluation of our managers and our executives—accountability relative to their ability to lead employees, to communicate with employees, to provide training opportunities, for diversity, for integrity.

All of those things are now part of the evaluation of each executive, and that was not something that was done—that was there before. It is something that we have done now.

So accountability is an important element of all of this, and I believe that we are now in the right place relative to accountability.

Mr. CARNEY. That is heartening. I am sorry it took 4 years to figure out accountability was important.

Anyway, I now recognize the ranking member of the subcommittee, the gentleman from Alabama, Mr. Rogers, for questions.

Mr. ROGERS. Thank you, Mr. Chairman.

Ms. Pérez, it just occurred to me a few minutes when I was sitting here preparing my questions—that the last permanent chief came before this committee to talk about this very subject—and not only morale, but high turnover and the problem that it has created in DHS. He told us that day things were getting a lot better.

And then later that day, he told us he had just turned in his resignation that morning. So I hope you are not going anywhere soon.

Ms. PÉREZ. I don't have any—no, I am not going anywhere, sir.

Mr. ROGERS. He said he didn't have the heart to tell me—

Ms. PÉREZ. Unless I do poorly, then they might tell me to go somewhere.

Mr. ROGERS. In thinking about this survey—you know, we have done this annually—and what it has told you, and in thinking about Mr. Stier's suggestion of metrics, I wonder, are you planning to—or do you think it would be beneficial to do a monthly survey within your department to get those metrics that he is talking about?

I am not talking about surveying all 180,000; but do a random scientific sample of 300–500 of them so that every month you can see if you are making improvements in certain areas or not improving, so that when the next big survey comes a year from now, you will pretty much have an idea of how you are going to look in it.

Ms. PÉREZ. Yes.

Mr. ROGERS. Is that something you all have talked about or would find beneficial?

Ms. PÉREZ. Actually, I am a firm believer of metrics. And in fact, while at OPM I was, in fact—I led the human capital assessment and accountability framework for the entire federal government. That includes metric as a requirement for the entire government.

We are in the process of—metrics and surveys are extremely important, and they need to be measured on a regular basis. The most actionable information for—component for an agency within homeland security comes from surveys that are done at a very localized level. And that is going on right now.

TSA does it on a regular basis. CBP does it on a regular basis, to try to address—so that we don't wait an entire year. So those things are going on right now.

We are now looking to identify what are the metrics that we want to monitor on a regular basis, like, for instance, the turnover, attrition in the department, the quality of the employees that are coming on board, the time that—the investments that we are making in training—all of these things that are being looked at and that we are—I am in the process of developing a bit of a scorecard that will do that.

We now have as a requirement in the law an annual survey, and homeland security will be administering its survey in September time frame.

But you should know that surveys, localized surveys, are going on at CBP, you know, TSA, Coast Guard, just to make sure that

we keep our pulse, if you will, our hands on our pulse in making sure that we know what employees are doing.

But at the same time, you can survey the organization to death, but if you do not take action, and if employees feel that the comments and the recommendations that they are making are not being acted on, it is of no use.

So part of the accountability is to make sure that, yes, we have surveyed, but most importantly that we take the actions that need to take place to make sure that we improve the leadership of the department, get our managers to train, and that employees are, in fact, seeing a change.

Surveying is not enough unless there is action behind it to say, where is the beef here.

Mr. ROGERS. The biggest problem that this committee has noticed in the last couple of years, 3 years, has been a high turnover in upper management positions.

What, if anything, are you planning to do or are doing to try to remedy that?

Ms. PÉREZ. I am happy report that the turnover in the department is, in fact, going in the right direction, going down. And in fact, we now—our turnover is about 9 percent relative to the government-wide, which is a little over 8 percent, so we are going in the right direction.

We continue to monitor—it is not just the turnover. It is the turnover in what positions and so on, so you have got to be careful about monitoring turnover.

The other challenge for homeland security, but also for the entire government, is the fact that our workforce is aging. So many of those turnovers are natural turnover. People are retiring.

Standing up homeland security took a lot of energy from a lot of our employees, who are very dedicated but were working long, long days to stand up the department.

Situations like Katrina, events like Katrina—I mean, these are things that taxed individuals who were very committed to the mission. And you know, often what happens is if they are eligible to retire, they may retire.

So the things that we need to work on, and the things that we are paying attention to is how do we create incentives for retention strategies. How do we make sure that we are not, you know, working people to, you know, extreme hours?

All of those things we are monitoring and monitoring closely. By bringing more individuals into the organization, our leadership ranks are pretty much—out of 428 SES slots that we have for—now they recently increased it. We were pretty much—less than 10 percent vacancy rate. That is actually very good for a department our size.

So making sure we have the right people in place, making sure we are not overworking our folks—those are all important things, and we are paying attention to that.

Mr. CARNEY. The chair now recognizes the chair of the full committee, Mr. Thompson from Mississippi, for 5 minutes.

Mr. THOMPSON. Thank you very much.

Nice seeing all the witnesses again.

Ms. Pérez, one of the things we grapple with on this committee is the fact that the department will not fill vacancies in a reasonable period of time.

Let me give you an example. One of the largest procurements we have right now is called SBInet. We have had testimony before the committee that we know what our staffing requirements will be for the next 2 years or 3 years.

But we receive testimony that for the next mission for SBInet, which starts in June, we will only be able to hire 46 percent of the procurement people, and we are going to have to contract the rest of the procurement.

What do you think is the reason the department can't hire people when they know they need to hire them?

Ms. PÉREZ. Sir, I think that it is the most critical, important key. What keeps me up at night is the question of our ability to hire, which is why when I came on board (and one of my priorities is the whole hiring initiative, which is why I keep telling you that the human capital operational plan is not MaxHR).

It addresses areas that were not paid attention to in the past, and particularly areas like procurement, areas like financial management, areas like I.T.

Those are corporate assets that the department needs to be looking at. And we have never looked at it in that fashion. We began in March precisely that, an initiative.

We put ads in the Washington Post that basically identified the competencies that we need, the skills that we need, saying we need program managers, we need procurement individuals, all of these things (put out an ad, and we had over 300 applicants).

We are now processing those applications to make sure that precisely, Chairman Thompson, we have the talent that we need.

There is absolutely no reason why the department should not have the talent, except that hiring may not have been a priority in the past. It is a priority.

Mr. THOMPSON. So knowing that somebody is failing (do you know anybody who has been fired because they didn't perform that responsibility?

Ms. PÉREZ. The problem is not so much the failing to—responsibilities, sir. It is that we managed hiring in the department as a very administrative function rather than with the eye to recruiting talent, to bringing the very best to the organization.

And I apologize for giving you—

Mr. THOMPSON. I appreciate you, but let me move it forward.

Ms. PÉREZ. Okay.

Mr. THOMPSON. What happens is we end up paying three times the cost because we go and contract for that service. Why can't we just hire the person, keep them, because you know you need them?

But then you come up and say we are only hiring 40 percent of the people, so we outsource, so if my colleague, Mr. DeFazio, is a contract employee, he is making twice the money that a government employee would be making.

So therefore, as a taxpayer, we are paying more money for the service. And I am saying to you that that is a problem that the department continues to have across the board.

And you just said that MaxHR is dead. But now everything you described in your testimony tell me MaxHR lives in another form.

And I would hope that the department is not playing a shell game with Congress and the courts by determining that they are not going to follow the directions of Congress in this whole personnel system. If it is bad, it is bad. Don't try to dress it up.

Let me move forward. Mr. Cox talked about some information he needed. And I think it is reasonable. If, in fact, we have employees who don't receive cost of living raises, when Congress, in fact, passes legislation that authorized cost of living raises, I want to know it.

So can you tell me whether or not TSA employees receive cost of living raises?

Ms. PÉREZ. The compensation system of TSA employees is different, and I will have to get back to you with the specifics. I don't have it.

Mr. THOMPSON. So they don't get it—

Ms. PÉREZ. No—

Mr. THOMPSON. —even though Congress passed it.

Ms. PÉREZ. —I didn't say they don't get it, sir. I don't know the answer to that. I will have to come back to you with that answer.

Mr. THOMPSON. Well, when you come back to me, I need that answer. If they don't get it, then I need to see what they get, how they get it, what is the objectivity in the giving of it.

You spoke of diversity in the department. Are you satisfied with diversity in DHS?

Ms. PÉREZ. No, sir, I am not satisfied, and neither is the leadership of the department satisfied with the diversity in the upper ranks of the organization.

And as I mentioned earlier, I was in the south of the border last week and had the opportunity to see there is a lot of diversity in the front lines.

Our employees that are working, you know, directly with our—well, not so much clients, but the people that we service. There is a lot of diversity there.

We don't have the appropriate diversity in the leadership ranks. We do not, sir.

Mr. THOMPSON. Well, that is south of the border. You know, that is kind of stereotyping. And I want you to understand, a lot of us look at DHS in the broader sense. And we think that that is and continues to be a major problem.

Have you ever met with the civil rights director for DHS?

Ms. PÉREZ. He and I are partnering on a number of initiatives. My reference to the—I just want to make sure—my reference to the southern border is that that is where I happened to be visiting, so it was not a stereotype.

Mr. THOMPSON. Oh, okay.

Ms. PÉREZ. That just happened to be where I was.

I am working very closely with Dan Sutherland, the civil rights-civil liberty officer for the department, and in fact have started a number of initiatives, including Dan and I are meeting with component heads and talking about our diversity objectives—not only important in the sense of recruitment, retention but also opportunities for training and development.

Mr. THOMPSON. Well, if you have something in writing about this partnership, will you provide it to this committee?

Ms. PÉREZ. Absolutely. We would be happy to, sir.

Mr. THOMPSON. Thank you.

I yield back.

Mr. CARNEY. Thank you, Mr. Chairman.

The chair now recognizes other members for questions that they may want to ask the witnesses.

In accordance with our committee rules and practice, I will recognize members who were present at the start of the hearing based on seniority on the subcommittee, alternating between majority and minority.

Those members coming in later will be recognized in the order of their arrival.

The chair now recognizes my good friend from Colorado, Mr. Perlmutter, for 5 minutes.

Mr. PERLMUTTER. Thank you, Mr. Chairman.

I have a number of questions, and I will start off by saying I sympathize with the department really in two areas. One, forming the department out of 22 agencies, the merger piece of this, 170,000, 180,000 people, is one heck of a task and takes time. There is no ifs, ands or buts about it.

And constant reorganizations, though, in the department prolong, you know, getting to some, you know, lasting stability and, I think, ultimately good morale in the department.

So I just would caution all of you that constant reorganizations don't help the process, and some stability is needed as we go forward.

I would also say, you know, I am not a guy that is—you know, you have employees, and you want those employees to do their job, and I am not looking for, you know, a happiness quotient in all this.

But there is clearly—in business, in government, in life, if somebody has got a bad attitude, they will often do a bad job. And that is where Chairman Thompson is so correct.

I mean, the job we are asking of all of these folks is to, you know, prevent attacks, respond to disasters and monitor who is coming and going from our country, and we need people generally with good attitudes to make sure they do a good job.

So I have a couple questions. First is I have had a chance now to meet with TSA employees, particularly out in Denver, but elsewhere. I kind of check in with them as I am going through all these different airports.

And, to Ms. Kelley and Mr. Cox, you both mentioned the importance of TSA collective bargaining rights, and you know, in my conversations, all off the record, I have seen, particularly in Denver, where we have reduced the number of transportation officers by—I think from 1,100 down to about 700—and we have almost doubled the number of passengers going through those screening checkpoints.

And you know, what I am concerned about there is seemed to be poor pay and poor benefits, and much greater workload on folks.

They just had an experience—it was on T.V.; I was questioned about it—where they did very poorly on what they call a red team

examination, where they went in and checked the security and whether bombs could be passed through various checkpoints.

And so you know, I am concerned. Again, the end product being if bad attitudes, you know—too much stress on the system ends up in less security. And I would like first Ms. Kelley to comment on it, Mr. Cox, and then Ms. Pérez, if you get a chance.

Ms. KELLEY. Well, I think what you here described—and just from the sheer numbers that you report, obviously there is increased stress and pressure on employees who are trying to do the best job possible as employees and for our country.

And in addition to the pay issues, I mean, there are a lot of health and safety issues that the TSOs face in their jobs that are not being appropriately addressed by management.

The issue of collective bargaining would provide an opportunity for those employees and their representatives to address those issues in a formal setting rather than just have management decide whether or not they want to act on things that they hear.

I would be shocked if the things that you hear and you see are not known by TSA management in Denver. And yet nothing is obviously being done to appropriately address them, to enable these employees to do the job that they are trying to do.

So collective bargaining provides the framework for that, and it takes nothing away from the agency from a standpoint of needing to be responsive, to make sure they have the staff there.

If they become aware of some information, there is language in the statute today that provides in emergencies for management to make these decisions without any reference to collective bargaining.

We saw it happen on September 11th and in the aftermath of September 11th. There was no one waving their union contract saying, "I won't go to that bridge, or to that land border or to that port. I won't work 16-hour shifts six or 8 days in a row." That just did not happen.

There is no frame of reference to point to to show that collective bargaining would get in the way of TSA being successful and of giving these employees what they need to be able to be successful.

Mr. PERLMUTTER. Mr. Cox, quickly, if you would.

Mr. COX. Yes. We have worked with TSA employees since they have started, since that was federalized as employees of the federal government.

Some of the things that we have seen that we believe collective bargaining would help with, like sick leave, time and attendance, rotation of shifts—frequently, we get calls and we talk with these employees.

They get a benefit of sick leave, as all federal employees do. However, if they have an ill child or they try to use family medical leave, they are told, "No, you can't use that, you have to take leave without pay," or either, "We will charge you AWOL," those type things.

How can anyone be focused on doing a good job when each day they are being said, "Choose between your sick child or, you know, coming to work?" Those are the kind of things parents don't deal well with. I didn't deal well with it. You didn't deal well with it.

There is things we could handle with collective bargaining—the rotation of shifts where they are coming in at 5 a.m. one morning, then they send them back home and they work them midnight, and then they have got to be back at 5 a.m.—those type things.

People are not happy with that, nor can they function well with that.

Mr. PERLMUTTER. Thank you.

I have used up my time.

Mr. CARNEY. You have, and thank you for pointing—

Mr. PERLMUTTER. But it is nice that you let me go first—

Mr. CARNEY. Well, of course.

Mr. PERLMUTTER. —before my colleagues to my right.

Mr. CARNEY. These are important.

I now recognize Ms. Clarke from New York for 5 minutes.

Ms. CLARKE. Thank you very much, Mr. Chairman.

Mr. Chairman, in the past I have stated that I am extremely concerned about the personnel problems within the Department of Homeland Security.

DHS is the single most important department in our government when it comes to the safety and protection of the American people.

Yet overwhelming evidence has demonstrated that DHS is the single worst cabinet-level department when it comes to the handling of its personnel, who are the least satisfied workers in our government.

This situation must change if we are to ensure our key agencies are able to retain their most valuable employees.

Let me just start by saying that there has to be a level of sensitivity, starting with you, Ms. Pérez—and I wanted to ask you a couple of things.

First of all, just trying to reinvent the culture there, and going from MaxHR to a system that essentially says HCOP, you know, I am just thinking about psychologically, you move to HCOP, right? Okay. Let me just continue there.

And then I wanted to ask you just the whole human capital piece, which sort of makes employees—as a layperson, it is sort of a material commodity. You know, you carry the title of chief human capital officer.

I wanted to just ask you, from a symbolic or emblematic standpoint, you know, how does it feel? I mean, did you kind of think about even your title and what that would represent in the context of developing a culture for the agency?

Ms. PÉREZ. First of all, let me tell you that I agree completely that the area of personnel management and making improvements in homeland security are key, and key to our success.

With regards to the title of human capital, I have now been, for the last—well, in my professional life, now 30 years dedicated to development of employees and so forth, have carried many titles—human resources. I worked for OPM personnel management and now here—of human capital.

The title human capital did not come from DHS but, in fact, the statute that created the human capital council with the OPM as the chair of that entity.

At the end of the day, frankly, ma'am, I think what is important—less on the title, and my title, chief human capital officer—

in fact, I am a Hispanic woman who—where *chica* means little—young lady, or what have you.

Often, the title *chico* is one used to (as an abbreviation of what, you know, the heads of human resources management in the departments are called, not necessarily one that I think is particularly flattering, especially as a Hispanic woman.

But quite frankly, to me, at the end of the day, ma'am, what is really important is that we do the right things to employees and less on what we call ourselves. So I was not about not to take the job because the title was chief human capital officer.

With regards to the operational plan, the human capital operational plan, it is not—when I was at OPM, my responsibility was to audit human resources practices across the entire government.

In that capacity, I had the opportunity to look at many well-written plans, with fancy names, you know, and branding names and so forth. But at the end of the day, you didn't know what the department was going to accomplish.

What the components and my office did in coming together to create an operational plan. The acronym is just a federal government practice of giving an acronym to everything that we do.

It is really the human capital operational plan. And what is in there is very—it is nothing fancy. There is no lofty pages of, you know, grandiose treatises about human resources management. We will, by May of such and such a date, do this, we will do this. That is all it is.

The fact that we use an acronym to describe what is in it—it is not something that was designed to be sexy or designed to be in any way diminishing the importance of our employees.

It is just an operational plan, ma'am, with very specific objectives. My title—if we can come up with some fancier title, I would be pleased. At the end of my day, I just want to do my job.

Ms. CLARKE. With all due respect—and I certainly understand the administrative end. We are talking about an agency that has a history of demoralization, and so we have to be sensitive to these things, right?

Ms. PÉREZ. Right.

Ms. CLARKE. Whatever we can do to change that culture—we want to impact it in a positive way.

My time is up, and I just wanted to bring that to your attention, because if you feel that it is somewhat dehumanizing, and that there are certain things within the culture—Mr. Chair, one moment.

Mr. CARNEY. One more, yes.

Ms. CLARKE. Thank you.

I think it becomes your obligation to speak out and to impact on that.

Thank you very much, Mr. Chair.

Mr. CARNEY. Thank you, Ms. Clarke.

Mr. DeFazio, you are now recognized for 5 minutes.

Mr. DEFazio. Thank you, Mr. Chairman. Congratulations on chairing this important subcommittee.

Ms. Pérez, you used to work at OPM, I believe you stated, is that correct?

Ms. PÉREZ. Yes, sir.

Mr. DEFAZIO. Okay. Now, in your testimony on page three, you say here, mindful that the survey is only one source of data—you are referring to the OPM survey at that point, I believe—

Ms. PÉREZ. Yes, sir.

Mr. DEFAZIO. —which reflects the attitudes of our workforce at a single point in time.

Now, weren't there actually two OPM surveys, 2005 and 2006?

Ms. PÉREZ. Yes.

Mr. DEFAZIO. Weren't they pretty consistent?

Ms. PÉREZ. Yes.

Mr. DEFAZIO. Wasn't 2006 worse?

Ms. PÉREZ. Unfortunately, it wasn't necessarily worse. I mean, it was—in some areas we went down. In other areas, we went up.

Mr. DEFAZIO. Let me say it was very disturbing. It was not good.

Ms. PÉREZ. It was very disturbing.

Mr. DEFAZIO. Okay. So we didn't see any progress between 2005 and 2006 with the OPM—and you would say that, since you worked at OPM, that OPM surveys are valid.

I mean, they do have valid instruments. They do them in a proper way. They do give some real measure of employee satisfaction.

Ms. PÉREZ. Absolutely. Not only was I there, I was involved in the design of the questions, so I think they are extremely important.

Mr. DEFAZIO. Okay.

Ms. PÉREZ. But all the metrics are really important.

Mr. DEFAZIO. Okay. But I mean, that is what was confusing here, is that they—then you go on to say—so we have established we have two OPM surveys. They both, 2005 and 2006, are distressing in terms of the morale at the agency.

But then you go on to say they should be considered with other data. Are there other data instruments, or surveys or something, that show that the findings are improper, or what do you mean by that, other data?

Ms. PÉREZ. Yes, thank you for asking. And Mr. Stier sort of alluded to the notion of metrics, and we talked about that before.

There are a lot of different things that sort of provide—that are indicators of how an—the health of an organization, things like the rate at which people are leaving the organization, the way that rewards are being administered in an organization, the way that compensation decisions are being made—all of those things are indicators of an organization that is either well-managed or not so much.

So those are the—that is what I meant, sir, not to minimize its importance, but to say that there are a lot of different things the department needs to be paying attention to.

Otherwise we are not going to make the progress that all of us want the department to make.

Mr. DEFAZIO. Right, but the summary judgment is not so much. Now, you said the rate leaving—I mean, yes, there are certain parameters that go to that.

I mean, there are external forces, I mean, you know, whether you are in a good job market or not, where you are located and those sort of things.

You may be very unhappy in your job, but you feel what they call job lock. I am sure from your work you are familiar with that, you know, where people kind of feel stuck but they aren't happy there.

The thing I found disturbing was that there were such high rates of—and it was pointed to as a positive thing, and I think it is positive about the people we have, but not about the way they are being utilized in the organization—is the degree of—you know, I think it was 89 percent thought that—and I have lost the statistic here, but that the agency's work was important, their job was important—it was 80 percent, 89 percent—

Ms. PÉREZ. Right.

Mr. DEFAZIO. —so what we have here is that potentially—we have a dedicated workforce, potentially well-motivated people, but they are being mismanaged. And I mean, I was shocked, as was the chairman.

On the COLA—and I would like to add something to your response. When you respond to the chairman on the COLA question, I mean, if the TSA employees didn't get it, where did the money go? Did it go to a few—I mean, was it distributed as lumps to a few supervisors?

I mean, there was a substantial amount of money for COLA for all the workers, so when you respond to his question about did they or did they not get a COLA, do they or do they not get COLAs, if they didn't get a uniform COLA, where did the money go? I mean, we would want to see the distribution of those funds.

I also hear from TSA—and again, I think, as a human resource professional, you would know that this is often a source of job dissatisfaction because it causes family strife and a whole bunch of other programs—there is a tremendous amount of forced overtime in TSA. Are you aware of that?

Ms. PÉREZ. Yes.

Mr. DEFAZIO. And are we going to do something about that?

Ms. PÉREZ. Yes. And in fact, with regards to the compensation at TSA, again, I will come back with very specific as to how exactly they are compensated, at a later time.

With regards to the number of employees in the department at TSA, and the overtime and all of that, those are things that are, again, indicators of where problem areas may be. The Federal Human Capital Survey doesn't address that.

So those are areas the department needs to be paying attention to. And I know that TSA is paying attention to their hiring practices to make sure they have the right people on board, hiring the right kinds of people, providing career opportunities, career paths.

Part of the challenge is—and I, too, travel extensively and spend time talking to TSA screeners, who often wonder, "Why is this woman asking me these questions?" I even volunteer as a screener during the holiday shifts to get a feel for what—the work that they do.

And the problem is that they—so many of them don't feel they have the opportunity for growth. We are addressing that. The department is addressing that.

So there are a lot of factors that impact the employees' morale. Those are some of the factors that we need to pay attention to.

Overtime, excessive overtime, overtiring people absolutely would go against—would hurt the employees' morale.

Mr. DEFAZIO. Well, I was one of the authors of the legislation that created the Transportation Security Administration.

And it was certainly our intent in having a federal workforce not only to professionalize it and deal with all the problems that preexisted 9/11, and I won't go into those, but also to give people a career path, because we had had statements under the prior privatized system that the screener jobs were the lowest entry-level job in many airports, and people aspired to McDonald's. That was pathetic. The pay was better, et cetera.

So I would be disturbed to hear that we don't have the potential for a career path, because that was sort of the founding intent of the agency. And some of the other things you pointed to here—I mean, those are, you know, blinking red lights.

But the problem is okay, we have identified them. But I mean, if you have identified these whole series of problems, I assume then you put together a document that points to how you are going to resolve these many issues. Is there such a document?

Ms. PÉREZ. Those career paths are already in place—

Mr. DEFAZIO. Well, I am talking about more generally the whole list of problems—

Ms. PÉREZ. In fact, we have seen the attrition at TSA go from—in 2005, it is like 15 percent—from 15 something down to 13 percent. We are seeing the positive trend.

And in that market sector, airports and so forth, the attrition rate is usually 20 percent, 30 percent.

So we are seeing, sir, whatever—your vision relative to creating TSA, and to make sure that employees have those opportunities and so forth, now with the department is executing on them, and we are seeing a reduction in the attrition.

So the vision was correct, and we are seeing improvements in those areas.

Mr. DEFAZIO. All right. Well, one last point.

Thank you, Mr. Chairman, for the indulgence on the time.

And I caution all professionals who come before us—and you have a long career in human resources—is we need to hear recommendations that may not fit well with political bosses.

And for one, part of the problem at TSA is there is a cap. And the administration was complicit with the Republican Congress, who imposed an artificial cap on the agency, and that was, you know, particularly problematic post-9/11.

And you know, that is part of the problem here. You know, we have got the liquids. That puts more burden on the screeners. It puts more burden on the baggage system. You have to have more people downstairs.

We want to project TSA out in front of the work stations and have the person who checks the ticket and the I.D., the most critical interaction, be a TSA professional, not the lowest-paid entry-level job in the airport. That is the one residual position from pre-9/11.

But the point is at some point the agency is going to have to come forward and say, "We can't do it under this artificial cap."

And you know, otherwise we are forcing people to do overtime and all these other problems.

And all we want here is the truth, and we want things—we all want the department to succeed and to work better, and we want the employees to have more job satisfaction. So we hope to get some honest recommendations.

Thank you, Mr. Chairman.

Ms. PÉREZ. Thank you. Thank you, sir.

Mr. CARNEY. Thank you, Mr. DeFazio.

We will now begin the second round of questions for those who have them.

Mr. Stier, I understand that you had a time constraint, and I thank you for your time and your testimony today. And if you have to leave at some point, even in mid-answer, I guess we will let you do that.

Mr. STIER. Thank you very much.

Mr. CARNEY. Thank you very much.

I will recognize myself for 5 minutes. And we are going to strictly adhere to the 5 minutes now.

Ms. Pérez, the adverse action and appeal provisions in the DHS personnel regulations were declared illegal and a stay was imposed on the rule in 2005 by U.S. District Judge Rosemary Collyer, who said, “The regulations put the thumbs of the agencies down hard on the scales of justice in the agencies’ favor.”

The appellate court, however, said the plan changes in adverse action and appeals rights were not yet “ripe” for a decision since no one has been subject to discipline under them.

Still, the appeals court agreed with Collyer’s basic conclusion regarding the lack of fairness.

Despite the court’s rulings, DHS announced on March 7th of 2007 that they intend to implement provisions of the regulations not specifically struck down by the courts, including these provisions limiting due process and appeals rights.

Don’t you think the department should tread carefully implementing regulations that will limit due process and appeals rights that the courts have said they may very well strike down in their previous rulings?

Ms. PÉREZ. Sir, absolutely. And in fact, again, I keep going back to my life at OPM, but it was my job to audit agencies’ practices relative to that.

We have not diminished the rights of our employees so that—in the new adverse actions and appeals. However, I will qualify my statement by saying that you know that I came to the organization, to the Department of Homeland Security, late in September.

I have not had an opportunity to have conversations relative to those provisions with either my colleague, Colleen Kelley, or John Gage. We have talked about other things.

And what I have asked my department is that we will—that I will wait until I have those conversations, which I hope will be scheduled—I think they are scheduled for next week or so—to engage them and hear specifically from President Gage and President Kelley what are their concerns relative to that, because it is not our intention to do anything that in the minds of the employees diminishes their rights, absolutely none.

It is our desire, however, to address areas like in the Federal Human Capital Survey, when only 22 percent of our employees are saying that we address poor performers.

So it is not to diminish the rights. I will be engaging President Gage and Colleen Kelley in those conversations just so that I can hear firsthand from them, and then we will decide from there what we will do.

Mr. CARNEY. Okay. Thank you very much.

I just have a couple of minutes.

Ms. KELLEY AND MR. Cox, what advice given by NTEU or AFGE concerning the training of supervisors to conduct performance-based evaluations has the department implemented?

Ms. KELLEY. What I know about the training that they have provided that started last summer—I have anecdotal reports from supervisors who attended the training.

And the way it was described to me was a 2.5-day training of soft skills on basic management training. And that may be a very good place to start.

I think many supervisors in the federal government probably are put into those positions because they are very good technically at their front line job, and they really are not given any training or skills on how to be a manager.

And so as far as it goes, it sounds like it was probably training that they needed. How it has anything to do with launching a new performance management system or anything else—as far as I know, there was no training done on that.

And I would say I hope there hasn't been any training done on that, since none of that information about a new system has been shared with NTEU.

We were in discussions with the department in what were called collaborative meetings, where we were receiving information from DHS on what they were looking to do, next steps, the kind of market surveys they were looking at for a pay system, and that we were in collaborative discussions.

They ended last April. April of 2006 is the last meeting that was held. We have not had any information sharing or one iota of information since then, so that is what I know about what has been reported to me about the management training.

Mr. CARNEY. Mr. Cox?

Mr. COX. We have had very little information about the management training, and the reports we continue to get back from all the employees that we represent in the department is that there is very limited training.

And again, with performance management, I know my colleague over here says the G.S. scale is not the system to do it, but what we keep seeing is pretty much a situation that will continue until morale improves.

And we keep changing the system, and it keeps being worse, and so we change it and make it a little bit worse, and say, "Ah-ha, you had your chance. Take that one."

The whole reorganization, the personnel system, the training, we believe has just been a disaster in the whole department, sir.

Mr. CARNEY. Okay.

Ms. KELLEY. Mr. Chairman, if I could just add, this training of the 14,000, I think, Ms. Pérez said had been trained—while I think that might have been a good start and probably training they needed, I cannot tell you that I have had any reports from the field that they are now doing a better job of managing, communicating and supporting employees than they did before they had the training.

Ms. PÉREZ. With regards to the—we have implemented those areas like training and—like performance management and worked collaboratively with the unions and the employees in the design of that system, and that is all that has been implemented.

Ms. Kelley is right, we have not trained in any other areas relative to pay because we are not implementing in those areas, and therefore we have not trained in any of those areas. It is just not ripe yet.

We want to get performance management done well. We want to get it done right. It is absolutely fundamental for our success, and we are being very cautious relative to pay.

Mr. CARNEY. All right. I thank you.

I now yield 5 minutes or so to my colleague from Alabama.

Mr. ROGERS. Thank you, Mr. Chairman.

Ms. Pérez, what would happen if HCOP were not implemented?

Ms. PÉREZ. Frankly, I can't even imagine a message from Congress that we should not implement the elements of what is in the operational plan. Those are the most basic human resources management programs that one could imagine.

We will need hiring targets. We will train our employees. We will familiarize federal managers with flexibilities in hiring that Senators Akaka and Voinovich championed.

And we are not using them. Like, for instance, reimbursing employees for their expenses, college expenses. The federal government and the Congress passed legislation that allows departments to do that. We were not using that.

Those are flexibilities that are—every department in the government has those flexibilities. We want to train our managers in those areas.

If you tell me that I can't do training, I can't do hiring and I can't do basic performance management, you will be putting me out of a job, so to your question earlier—

Mr. ROGERS. Don't want that to happen. The last one didn't stay very long, so we want to try to get some continuity in this job.

Mr. Stier, in talking about your five points that you would recommend for DHS to improve, of those five, which would you say you would ask these people, particularly Ms. Pérez, to leave the table thinking, "This is number one," you need to do this more than anything else to help with this morale problem and turnover problem?

Mr. STIER. You have put me in a tough spot, because I think honestly that there is a whole set of problems and they all need to actually be addressed.

I think a starting point is better communication, and that is not even one of the recommendations that I have there, but I think fundamentally—you know, I think even me listening on this side of the table to hearing what is going on here, I don't think that

there is a, you know, shared sense—a sense of understanding about where the department is going.

And that has to happen first. I mean, the bottom line is that people have to have a shared set of facts, an open line of communication before any of this can happen. And so I think that is absolutely vital.

From your perspective, I think you need to keep your eye on an agreed-upon set of metrics that allow you to understand on a regular basis what is actually happening inside. And that is absolutely vital.

If I might answer a question as well that you asked earlier about turnover at the political level, I think one other issue that you might think about is whether it is going to be important to create some kind of position where you have longer tenure at the more senior ranks that can look at long-term structural infrastructure questions going on in government agencies. It is a big challenge.

One of the reasons why DHS is in the hole it is in right now is the point that you have raised, that you have had significant turnover in those leadership positions. It is also true in other agencies, but it is obviously more vital right now at DHS.

And the comptroller general has recommended the process of creating a chief management officer, a chief operating officer that would have a term appointment. That would be one way of dealing with it. But it is vital.

Unless you have leadership attention that is long term, you ain't going to get anything fixed.

Mr. ROGERS. And lastly, Mr. Cox, you made reference to some employees not getting a cost of living increase. Exactly who were you referencing?

Mr. COX. The transportation security officers, the airport screeners.

Mr. ROGERS. So that was the only universe of federal employees that you were making reference to?

Mr. COX. That is the reference that I am making in that statement, yes, sir. Those employees—we believe that they only get the locality pay, that they don't get the other cost of living raises, and that it is all based upon performance bonuses, which are very few and far between.

Mr. ROGERS. So you are saying that even the cost of living increase—if they get it—is performance-based?

Mr. COX. Yes, except for the locality portion of the pay, which is usually about 1 percent or less.

Mr. ROGERS. And how many years has this been going on?

Mr. COX. Since the department was created or when those employees were federalized back in 2002.

Mr. ROGERS. But you are not aware of any other employees in DHS who haven't been getting their annual cost of living increases?

Mr. COX. No, sir.

Mr. ROGERS. All right.

And, Ms. Pérez, you are going to get to this committee the specifics on what has been happening on that?

Ms. PÉREZ. Yes, I will get back. I think it is (in fairness to the committee, I think it is best that we provide a full presentation on

the compensation plan at TSA rather than me trying to answer the question.

Mr. ROGERS. Good. Thank you very much.

Thank you, all.

Mr. CARNEY. Well, I think we have run out of questions.

I want to thank all of you for your time and your valuable testimony. And the members of the subcommittee may have further questions. They will address them, and I would expect an expeditious reply to them.

Hearing no further business, the subcommittee stands adjourned. [Whereupon, at 11:38 a.m., the subcommittee was adjourned.]

APPENDIX A

An Overview of Civil Service Reform Efforts

For much of its history, the federal civil service and the underlying human resources (HR) laws, policies, and practices intended to guide federal workforce management were remarkably uniform across agencies. However, as the demands upon government grew over the past several decades in response to a growing population and a more complex and technologically advanced world, it became clear that some civil service reforms were needed.

Perhaps the largest civil service reform effort in recent memory was the Civil Service Reform Act of 1978. The 1978 Act made some significant changes to the civil service, such as the creation of the U.S. Office of Personnel Management and the Senior Executive Service. It provided, for the first time, statutory recognition of management relations. When the law was passed, Congress recognized that the specific government-wide reforms being authorized were unlikely to be sufficient, and it established a research and demonstration project authority (title 5 U.S.C. § 4703) to help guide reform efforts. Over time, several of the demonstration projects undertaken were allowed to become permanent alternative personnel systems.

Congress has also recognized for quite some time that “one size doesn’t necessarily fit all” when it comes to HR systems. For example, the U.S. Post Office became the U.S. Postal Service in 1970 with significant changes in its HR policies and systems that had previously been guided by Title 5. Earlier, in creating the Tennessee Valley Authority, Congress gave it wide discretion in the development of its HR systems. Similarly, the Veterans Administration (now the Department of Veterans Affairs) was given authority to manage its medical personnel under a different legal framework, Title 38 of the U.S. Code. The National Nuclear Security Administration in the Department of Energy is the latest federal organization to announce plans to become a demonstration project.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) gave special pay-setting authority to agencies such as the National Credit Union Administration and the Federal Deposit Insurance Corporation (FDIC). The Securities and Exchange Commission (SEC) was recently given comparable authorities. The Internal Revenue Service (IRS), Federal Aviation Administration (FAA), NASA, the Transportation Security Administration (TSA), and Congress’s own Government Accountability Office (GAO) have all been granted special HR authorities by Congress. The Departments of Defense and Homeland Security, which together employ over 42 percent of all civilian employees in the executive branch, are only the most recent federal departments granted relief from parts of Title 5 of the U.S. Code that were deemed too inflexible or counter-productive.

APPENDIX B

QUESTIONS AND RESPONSES

QUESTIONS FROM THE HONORABLE BENNIE G. THOMPSON, CHAIRMAN, COMMITTEE ON
HOMELAND COMMITTEE

RESPONSES FROM J. DAVID COX

Question 1.: President Kelley of NTEU testified that the President and TSA have the statutory flexibility to respond in times of crisis. In light of this, can you explain how granting TSA screeners collective bargaining rights could harm national security or prevent TSA from its mission?

The simple answer is that in both law and fact, there is nothing about the granting of collective bargaining rights to Transportation Security Officers (TSOs), or the exercise of those rights that is adverse to national security of the U.S. or TSA's ability to fulfill its mission. The basic collective bargaining provisions under the Federal Sector Labor-Management Relations Statute found in Title 5 U.S. Code, Chapter 71 give great latitude to the government as employer in the event of an emergency situation, including superseding provisions of existing collective bargaining agreements and states that "nothing in this chapter shall affect the authority of any management official of any agency. . .to take whatever actions may be necessary to carry out the agency mission during emergencies." 5 U.S.C. § 7106 (a)(2)(D). Once the emergency has passed, the provisions of the agreement that may have been applicable would be put back into effect. Management has the right to assign duties, both temporary and permanent, during non-emergency situations. 5 U.S.C. § 7106(a)(2)(A). Unions have negotiated fair assignment procedures into collective bargaining agreements that spell out rules for "Temporary Assigned Duties that allow qualified volunteers to be utilized to the maximum extend before forcing qualified volunteers to take on those duties. AFGE's collective bargaining agreements with other security and law enforcement agencies include provisions that set forth an orderly process for workers to volunteer for temporary duty assignments. In fact, TSA has generally used volunteers for assignments during times of heightened security alerts, including both Hurricane Katrina and the United Kingdom air bombing.

TSOs reported that TSA's response to these two security emergencies was hampered by the agency's of procedures for the very types of events for which it was created to respond—the same type of procedures included in every AFGE contract with the government.

QUESTIONS FROM THE HONORABLE MIKE ROGERS, RANKING MEMBER, SUBCOMMITTEE
ON MANANGEMENT, INVESTIGATIONS AND OVERSIGHT

Question 2.: In your testimony you both discussed the need for law enforcement officer (LEO) status for Customs and Border Protection Officers (CBPOs). The Committee on Homeland Security first included provisions to grant this status to CBPOs in the 109th Congress as part of the DHS authorization bill the Committee reported last year.

a. How many CBPOs receive this status?

b. What are the costs involved with providing LEO status to CBPOs retroactive to March 2003? How much would it cost to provide this status to individuals serving as customs officers prior to March 2003?

First, I do not recall such a provision being included in the FY 07 Homeland Security Authorization legislation nor have I been able to find it in on the internet. However, there was such a provision included in the FY '08 legislation recently adopted by the House of Representatives. H.R. 1684 would allow certain Customs and Border Protection officers to elect law enforcement officer coverage under Title V of the United States Code within five years of the bill's enactment. The Congressional

Budget Office estimates that 90 percent of CBP Officers under the age of 40 would opt for this coverage. Because one needs 20 years of LEO status to receive the benefits accorded LEOs and there is a mandatory retirement age of 57, few agents over age 40 would switch status. Only the Department of Homeland Security would have the data to determine how many CBP Officers are under the age of 40. CBO estimates that employee contributions would increase by \$19 million over the 2008—2012 period and by \$46 million over the 2008—2017 period.

The CBO analysis also estimated the cost to workers of providing LEO status to CBPO's retroactive to January (not March) of 2003. The estimate is based on an average salary of \$60,000 and a 20 percent participation rate. With respect to costs associated with providing LEO status retroactive to January, 2003, the estimated increase in employee contributions is \$2 million in FY '08.

Finally, AFGE has no data on the cost of providing LEO status to Customs Officers prior to March, 2003, both because AFGE did not represent those workers and that data is generally only available to the agencies, not the union.

Question 3: How will reverting to the General Schedule (GS) personnel system, as you recommend, improve employee morale at the Department of Homeland Security? How would pay and benefits under the General Schedule address concerns raised by DHS employees in the Federal Human Capital Survey?

Retaining the General Schedule (GS) pay system would eliminate the sense, on the part of DHS employees, that decisions about their salaries, job classifications, and salary adjustments will be based on subjective factors over which they have no control. AFGE members at DHS are both furious and anxious over the prospect that factors that are entirely unrelated to their own skills, efforts, and outcomes will be allowed to determine not only whether and by how much their salaries will be adjusted from year to year, but also how the agency will classify their jobs. This administration has shown again and again (the Department of Justice, the State Department, the Defense Department, Health and Human Services, etc.) a willingness to politicize hiring and pay decisions affecting federal employees, not to mention decisions about whether to contract out government work and which contractor to send it to. In the survey, DHS employees expressed a lack of confidence in their managers. They tell us that their lack of confidence includes a belief that career agency managers are neither able nor willing to stand up to pressure from political appointees.

Although on paper the DHS pay system promises to at least try to minimize subjectivity, DHS employees know that its "flexibility" creates the opportunity for favoritism, bias, discrimination, and dishonesty. Ultimately, the DHS pay system has crushed morale because DHS employees know that it allows the agency either to cut pay or deny a pay raise for any reason. Even if an employee's "performance" is judged worthy of a pay raise, the agency can deny it by citing its own "market data," and the employee has almost no recourse against this judgment. Even if the "market data" suggest an employee is underpaid, and a direct supervisor recommends a raise based on the employee's "performance," a decision made at a higher level could deny the raise because resources were needed to fund a different agency priority. The DHS pay system allows an almost endless number of scenarios wherein an employee does everything that is asked of him only to lose out in the end. Even without discrimination, even without malicious intent, even without politicization, the DHS pay system means:

1. uncertainty (one will never know whether performance, market data, or agency priorities will be determinant),
2. a lack of transparency (one will never know who made the decisions and the basis on which decisions were made), and
3. an absence of accountability (the employee will have almost no ability to hold either individual managers or the agency accountable for misfeasance because appeal rights have been curtailed).

Together, these facts mean that the system will always be despised. And a pay system despised by the employees is a guarantee of low morale.

In contrast, the General Schedule pay system is based on objective data. The labor market data are not a matter of a manager picking up the newspaper and checking the want ads, or buying "off the shelf" data from a contractor that do not accurately reflect the work performed by DHS employees. The data are from the Department of Labor's Bureau of Labor Statistics (BLS) National Compensation Survey, they explicitly include federal job matches, and no one questions either their validity or their quality. The methods for calculating the comparability of GS pay with private sector pay are clear, reliable, fair, predictable, and available to federal employees and the general public. Discrimination is rare and difficult to get away with because

salaries are set to reflect the duties of the job rather than the opinions about the personal characteristics of the jobholder or applicant. The pay system rewards good performance, experience, and dedication. Employees have the right to appeal both job classifications, pay cuts, and denials of raises to truly independent third parties. The GS system is widely viewed as fair because it is fair. As such, it improves morale by allowing employees to focus on doing their jobs instead of worrying about being the victim of an unjust, arbitrary, and politicized pay system.

Question 4: What improvements do you believe could be made to employee training programs at the Department?

Effective training programs are absolutely vital to the future of the Department of Homeland Security. Training has a major impact on any organization's ability to attract and retain talented employees, anticipate and respond to changing mission needs, and keep workplace morale high. If DHS hopes to realize these benefits of training, its programs must undergo serious rehabilitation. The Department must improve the quality of the training, but even more important, it must improve its ability to ensure fair distribution and reliable access to this training.

In its April 4, 2006 report, *AVIATION SECURITY: Transportation Security Administration Has Made Progress in Managing a Federal Security Workforce and Ensuring Security at U.S. Airports, but Challenges Remain*, the Government Accountability Office detailed serious problems with training Transportation Security Officers.

According to GAO, "...insufficient TSO staffing and a lack of high-speed Internet/intranet connectivity to access the Online Learning Center have made it difficult for all TSO screeners at many airports to receive required training and has limited TSO access to TSA training tools." GAO found that TSA managers had difficulty releasing employees for training, even required training, while maintaining adequate staffing levels. Once released for training, TSOs frequently encountered problems using the learning programs because of inadequate tools and resources available to them.

Such problems result in the failure to properly train all employees and they also result in favoritism, discrimination, and lapses in the distribution of scarce training resources.

These issues are not limited to TSA or TSOs. We find that throughout the Department employees tell us that training is missing, sporadic, or subject to favoritism. When staffing or budgets are short, training is one of the first things to go.

Our members tell us that training frequently is not advertised or distributed based on need, seniority, volunteer lists or other appropriate means. They say that training opportunities may be communicated to field or regional directors, but often don't make it to the frontline employees. This can be because of favoritism, failures in the communications networks, decisions to make training a low priority because of staffing or budget shortages, or other reasons. Whatever the reasons, however, the result is patchy implementation, inequity, and frustrated employees.

Increasingly, employees are informed only of intranet-based training programs, with few opportunities to participate in "hands-on" and classroom training with fellow employees and expert instructors. A common reason given is, "We don't have enough personnel to allow anyone to attend at this time." There should be more emphasis and efforts put into the kind of training that brings workers together where they can hear each other's questions, learn from each other's experiences, and gain the benefits of being taught by the experts.

Electronic and online learning are valuable tools for training and should continue, although they should augment but not replace classroom and field instruction. Employees tell us that the online training, or the "Virtual University," should be expanded to include such things as language training, immigration and other relevant laws that are constantly changing, and other job-related matters. In addition, employees would like access to training that can help them gain the skills and knowledge needed for career advancement within the Department.

A major problem with online learning, however, is the fact that large numbers of DHS employees do not sit at a desk with a computer to do their jobs, but work at the border, the ports, and other locations out in the field. Not only do they not have easy access to computers, but their jobs do not readily lend themselves to taking time to go through an online course. They also frequently do not get training in new technology, but are told to read the manual and "play around with it." There should be computers and printers that employees can use, along with instructions and designated time for them to take these courses.

ICE employees tell us that the Agency withdrew funding for "aspiring leaders" and "new leaders," which allowed volunteers to shadow fellow DHS agencies to understand the bigger picture and learn how ICE, CIS, and CBP operations fit into

the overall design and how their jobs fit into the mission. This was a valuable on-the-job opportunity that should be brought back and expanded. In the past, there were always more volunteers than slots, so a fair and neutral panel should be established to make selections to avoid the perception that you have to be in the “inner circle” to get this opportunity.

Employees who go through academies or other learning centers, for law enforcement, Immigration Enforcement, etc., would like to see more opportunities for experienced workers to rotate in as instructors. This both enhances the work experience of the instructor and brings knowledge of up-to-the-minute current practices to the students.

One of the most common concerns of employees was the inadequacy of refresher training once they were on the job after their initial training. Employees describe this as a hit or miss proposition. In far too many cases, required annual refresher training is minimized or not offered at all. For example, Federal Protective Service employees tell us that their Public Service Building Handbook requires annual training in:

- Use of Force
- OC (Oleoresin Capsicum, or “Pepper”) Spray
- Expandable Baton
- Nuclear, Biological and Chemical Refresher

They tell us, however, that this training is lacking or sporadic at best. They also tell us that required quarterly firearms qualifications are sometimes waived because there is no appropriate firing range available.

DHS employees tell us that they are not receiving required training to do their jobs. They are not getting necessary refresher training to keep their skills sharp or keep up with changing laws and policies. Many of them do not have access to the tools necessary to take advantage of online training opportunities. Due to staffing shortages, budget shortfalls, and the persistence of a “good old boy” network, training opportunities, both required and career enhancing, often do not reach the people who need them and would make the best use of them.

DHS must develop a meaningful plan for determining its training needs and ensuring that employees receive necessary training and have real opportunities for career-enhancing training. This cannot be left up to various organizational levels to decide whether or not they will comply—this must be a requirement and there must be accountability. Labor-management committees and panels are good ways to have oversight and accountability and make sure that resources are used effectively and equitably distributed in our bargaining units.

This really isn’t a “wish list,” i.e., things that would be nice to do if we only could fit them in. These are requirements for a high performance organization that prizes talent and accomplishment, and has the awesome responsibility of protecting the security of our homeland.

QUESTIONS FROM THE HONORABLE BENNIE G. THOMPSON, CHAIRMAN, COMMITTEE ON HOMELAND SECURITY

RESPONSES FROM COLLEEN M. KELLEY

Question 1.: During the hearing, you testified that the President and TSA have statutory flexibility to respond in times of crisis. In light of this, can you explain how granting TSA collective bargaining rights could harm national security or prevent TSA from fulfilling its mission?

Response: I see no reason how granting TSA collective bargaining rights would harm national security or prevent TSA from fulfilling its mission. On the contrary, I believe that TSA’s continuing workforce problems stem directly from the decision to deny employee input through the collective bargaining process. TSA has been plagued by personnel problems never seen in any federal agency. Maintaining a stable, qualified, trained workforce was the primary goal of federalizing the transportation screener position. And years of massive turnover has wasted millions of taxpayer dollars in recruitment and training costs. NTEU believes that employee rights are the foundation for building a highly trained, committed, experienced career TSO workforce.

The Administration’s concerns that collective bargaining rights would limit management flexibility or undermine national security at TSA has been totally discredited by the record of the organized workforces at other DHS bureaus. Indeed, it is insulting to the hundreds of thousands of dedicated public safety officers with collective bargaining rights—from CBP Officers and Border Patrol Agents at DHS to local police and firefighters and your own Capitol Hill Police Force—to suggest that they would put their union rights before the national security interests of the country.

Collective bargaining rights have not hindered the federal government's emergency response capability. Every union contract with federal government agencies recognizes management's right to assign work and detail workers as necessary. In addition, **management flexibility in times of crisis is set in statute. Title V, Section 7106(a)(D) states clearly that nothing "shall affect the authority of any management official of any agency to take whatever actions may be necessary to carry out the agency mission during emergencies."**

Rather than inhibit management, collective bargaining agreements set procedures for work assignments and duties that lead to stability in the workplace. Union rights result in trained, experienced, committed and efficient workers, and that is what it takes to make this nation safe.

Federal workers represented by a union have no right to strike, and any statement to the contrary is patently false. The statute creating TSA, P.L. 107-71, in Section 111, includes specific language: (i) Limitation on Right to Strike—an individual that screens passengers or property, or both, at an airport under this section may not participate in a strike, or assert the right to strike, against the person (including a governmental entity) employing such individual to perform such screening.

Title V also includes a specific prohibition on the right to strike for all federal employees in Section 7311 that states: "An individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—(3) participates in a strike, or asserts the right to strike, against the Government of the United States. . ." And Section 711(b)(7)(A) of Title V makes it an unfair labor practice for a federal union to call or participate in a strike.

Therefore, there is no reason that TSOs should not have the same collective bargaining rights as other DHS employees.

Like most other DHS employees, TSOs must have access to an adverse action and appeal process that treats employees fairly and ensures that their due process rights are protected. TSOs must be given reasonable notice and an opportunity to make a meaningful reply before disciplinary action is taken against them. TSOs must be able to appeal agency actions to an independent adjudicator whose decisions are judicial review and agencies should bear the burden of proving just cause for actions taken against employees. In a workplace without these bedrock protections, employee morale will suffer, which in turn will adversely affect efficiency.

Basic fairness, including equity, security and stability of the TSA workforce compel Congress to provide collective bargaining rights for the only major workforce at DHS denied these rights. Ending years of TSA employee turnover and turmoil will result this important correction by Congress.

NTEU strongly supports repeal of Section 111(d) of ATSA as approved by the House of Representatives in H.R. 1 and included in S. 4. Reversing this unequal treatment of TSOs will help restore morale and strengthen mission and personnel dedication at the Department of Homeland Security. NTEU wants for TSOs the same thing I believe Congress wants—a workplace where employees can be successful and do quality work in an environment where they will be treated with dignity and respect and supported in achieving the agency's critical mission.

QUESTIONS FROM THE HONORABLE MIKE ROGERS, RANKING MEMBER, SUBCOMMITTEE ON MANAGEMENT, INVESTIGATIONS, AND OVERSIGHT

Question 2.: In your testimony you both discussed the need for law enforcement officer (LEO) status for Customs and Border Protection Officers (CBPOs). The Committee on Homeland Security first included provisions to grant this status to CBPOs in the Congress as part of the DHS authorization bill the Committee reported last year.

a. How many CBPOs would receive this status?

b. What are the costs involved with providing LEO status to to CBPOs retroactive to March 2003? How much would it cost to provide this status to individuals sewing as Customs Officers prior to March 2003?

Response: According to the May 2,2007 Congressional Budget Office (CBO) Cost Estimate for H.R. 1684, "CBO estimates that, in 2008, roughly 9,000. . . would be subject to treatment as federal Law Enforcement Officers under the Federal Employees Retirement System (FERS)."

Rather than cost any additional federal funding, CBO estimates that Section 501 of H.R. 1684 "would increase revenues by \$5 million in 2008, \$19 million over the 2008—2012 period, and \$46 million over the 2008—2017 period." I've attached the CBO Cost Estimate in its entirety.

The Congressional Budget Office has done no recent cost estimate of a proposal to provide LEO status to individuals serving as Customs Officers prior to March 2003.

Question 3: How will reverting to the General Schedule (GS) personnel system, as you recommend, improve employee morale at the Department of Homeland Security? How would pay and benefits under the General Schedule address concerns raised by DHS in the Federal Human Capital Sway?

Response: DHS has been pursuing a pay-for-performance experiment with the ultimate goal of replacing the current General Schedule for all DHS employees, the system by which most federal employees are currently paid. The idea of alternative pay and personnel systems using a new pay and performance management system has been one promoted by the Administration for several years. But there is no hard evidence that these alternative pay systems work.

To quote Robert Behn, author and lecturer at Harvard University's John F. Kennedy School of Government, "Systems don't improve performance; leaders do." In his book, *The Human Equation: Building Profits by Putting People First*, Jeffrey Pfeffer, of Business School says, "Although variable pay systems that attempt to differentially reward individuals are clearly currently on the increase, such systems are frequently fraught with problems. Incentives that reward groups of employees or even the entire organization. . .are customarily preferable."(p.203)

I believe that leadership that solicits, values, and acts on the ideas of frontline employees in efforts to achieve agency missions is missing in many agencies today. Providing that kind of leadership would do more to improve the quality of applicants and performance of employees than alternative personnel systems and pay for performance projects as proposed by this Administration.

Despite being ranked at the bottom of the Partnership for Public Service's annual survey of "Best Government Places to Work," DHS is insistent on moving forward on its alternative personnel and pay system. While the pay for performance system at DHS has not yet been implemented, we are very concerned that it will push employees who are already demoralized out of the agency when the importance of keeping experienced, skilled employees is greater than ever. Let me be clear, the employee opposition to the proposed DHS system is not about "fear of change," as some have tried to portray it. I know firsthand that this group of employees, entrusted with protecting our country from terrorists and other criminals, is not a fearful group. What they most object to about the proposed DHS system is that it will make it harder, not easier, to accomplish the critical mission of the agency.

There are several reasons for this: 1) The system is not set by statute or subject to collective bargaining, so there is nothing to provide its credibility among employees; 2) The system will have employees competing against each other over small amounts of money, discouraging teamwork, which is critically important in law enforcement; 3) The system is subjective, which will lead to at least the appearance of favoritism; 4) The system is enormously complex, the administration of which will require huge amounts of money that is so much more desperately needed in front-line functions, not to mention siphoning off money that could go for more pay in a less administratively burdensome system; 5) the draft competencies for the new DHS system do not recognize or reward the real work that these employees do to keep our country safe.

It is also instructive to look at IRS and pay for performance, while bargaining unit employees represented by NTEU are not covered by a pay banding performance based system, managers are. The Hay Group did a Senior Manager Pay band Evaluation on this system for the IRS in 2004. Here are some of the results: (1) 76 percent of covered employees felt the system had a negative or no impact on their motivation to perform their best; (2) 63 percent said it had a negative or no impact on the overall performance of senior managers; (3) "Only one in four senior managers agree that the SMPB is a fair system for rewarding job performance or that ratings are handled fairly under the system;" (4) "Increased organizational performance is not attributed to the SMPB."

The results of this system are dismal, yet it is pointed to as a model for moving the whole federal government to a similar system. In fact, there is a dearth of information to indicate that alternative pay systems have had any significant impact on recruitment, retention or performance. A GAO report on "Human Capital, Implementing Pay for Performance at Selected Personnel Demonstration Projects" January 2004 included virtually no evidence that the systems improved any of those measures. In fact, the Civilian Acquisition Personnel Demonstration Project, reviewed in that report, had as one of its main purposes, to "attract, motivate, and retain a high-quality acquisition workforce." Yet, attrition rates increased across the board under the pilot.

NTEU is not averse to change. We have welcomed, including at the FDIC where we have bargaining unit employees, and elsewhere, the opportunity to try new ways of doing things. Based on my experience, these are the things I believe will have the most impact on the quality of applicants and the motivation, performance, loyalty and success of federal workers.

(1) Leadership. Rules and systems don't motivate people. Leaders do.

(2) Opportunities for employees to have input into decisions that affect them and the functioning of their agencies. They have good ideas that management is currently ignoring.

(3) A fair compensation system that has credibility among employees, promotes teamwork and is not administratively burdensome.

Unfortunately, I do not believe the DHS pay for performance system follows these standards.

4. What improvement do you believe could be made to employee training programs at the Department?

I would first improve the training of DHS supervisors. A bill has been introduced in the Senate that will do just that, S. 967, the Federal Supervisor Training Act mandates the establishment of a training program for supervisors by each agency, in consultation with the Office of Personnel Management (OPM).

Supervisor training, accountability and development are pressing concerns for human capital management in the federal sector. Legislation should establish and authorize funding for new and necessary training programs for supervisors and managers of federal employees. These training programs would be mandatory and based on competency standards set by agencies under the guidance of the Office of Personnel Management (OPM).

In January 2007, the Office of Personnel Management (OPM) released the 2006 Federal Capital Survey, which showed that the federal government's employees and senior managers and leaders still face communication problems. For example, according to the survey: only 49 percent of federal employees have a high level of respect for senior leaders in their agencies, only 41 percent say they are satisfied with their leaders' policies and practices, and only 47 percent of federal employees said they were satisfied with the information they get from management.

Upon the release of the survey, OPM Director Linda Springer wrote, "As senior leaders retire, the federal government also faces a challenge—and opportunity—to improve the effectiveness of the leadership corps across government. We must develop the kinds of leaders who ensure a talented and committed federal workforce now and in the future. Our leaders will need to adapt the workplaces and opportunities they offer to attract the best and the brightest from diverse talent pools."

Good leadership begins with strong management training. It is time to ensure that federal managers receive appropriate training to supervise federal employees. The Federal Supervisor Training Act, S. 967, has three training components. First, the bill will require that new supervisors receive training in the initial 12 months on the job, with mandatory retraining every three years on how to work with employees to develop performance expectations and evaluate employees. Current managers will have three years to obtain their initial training. Second, the bill requires mentoring for new supervisors and training on how to mentor employees. Third, the measure requires training on the laws governing and the procedures for enforcing whistleblower and anti-discrimination rights.

NTEU believes S. 967 adds several essential features to a supervisor training initiative. First, it mandates coverage of a wider range of managers. Second, it provides a more detailed description of the type of training to be required. It specifically requires that training be interactive and instructor based. For supervisor training to be meaningful, it must be more than simply the review of written material. Training delivered by training professionals in a situation—either face to face or internet based—which allows dialogue, questioning and interaction between student and teacher is an indispensable feature of an effective program.

Further, S. 967 has great value as it requires more than simply training in the supervision of employees but in working with employees, communicating with them, and discussing their progress. A good manager needs to do more than correctly evaluate an employee. A good manager needs to know how to develop an ability to help his or her subordinates become top performers and be able to communicate with and hear from employees. A well trained manager knows how to motivate employees, build teamwork, and be flexible rather than rigid in workplace situations.

Absolutely essential is the requirement in the bill to include supervisor training on prohibited personnel practices, particularly violations of statutorily prohibited discriminatory actions and whistleblower activities. A key way to lessen discrimination in the federal workplace and ensure workplace fairness is for proper supervisor training so that they fully understand the duties and obligations they have. NTEU

believes, however, that this section needs to be even further expanded and defined. It must be explicit that this training encompass the full range of prohibited personnel practices, unfair labor practices, and all violations of the merit system.

In addition, S.967 will set standards that supervisors should meet in order to manage employees effectively, assess a manager's ability to meet these standards, and provide training to improve areas identified in personnel assessments. S. 967 includes the promulgation of management performance standards. Supervisor training will lose its full value if there are not standards to measure it by. NTEU believes that by including management competency standards, we have the ability to move toward accountability.

S.967 received support from the Government Managers Coalition, which represents members of the Senior Executives Association, the Federal Managers Association, the Professional Managers Association, the Federal Aviation Administration Managers Association, and the National Council of Social Security Management Associations; the American Federation of Government Employees; the National Treasury Employees Union; the International Federation of Professional and Technical Engineers; the AFL-CIO, Metal Trades Department, as well as the Partnership for Public Service.

QUESTIONS THE HONORABLE BENNIE G. THOMPSON, CHAIRMAN, COMMITTEE ON
HOMELAND SECURITY

RESPONSES FROM THE HONORABLE MARTA BRITO PÉREZ

Question 1: Ms. Pérez, in your testimony you discussed employee resistance to mergers. Do you believe that one source of this "resistance" is that employees believe that they are not getting similar treatment as other employees in the Department or throughout the government as a whole?

Response: No, the Department does not believe that employee resistance to mergers is due to a perception of dissimilar treatment. The challenges DHS employees are experiencing relative to the creation of the department has, in my opinion, two sources. First, DHS was formed as a result of the most horrific act of terrorism that has ever taken place within our borders. That event changed the nature of the work for most of the agencies that now comprise the Department of Homeland Security. That has had a significant impact on all of our employees. As a result, the workload has increased exponentially as well as the impact of what they do. 9/11 changed the intensity of the mission for all affected organizations.

Second, even if the formation of DHS had not been triggered by the September 11th attacks, it would still represent a huge and complex merger. Resistance to such a merger would be normal as employees of the legacy DHS organizations feel attachment to the rich cultures and histories of those organizations. Yet, to be effective in carrying out our mission, we must further integrate our components and solidify the unified "Team DHS" environment.

So we have both the intensification of mission associated with the challenges of protecting our nation in a post-9/11 world and the tremendous organizational change of a merger of 22 organizations. Either of these factors would cause stress among our employees who are dedicated to protecting our nation and want to do the right thing. Their self-imposed pressure is now extremely great because we have all seen the grave consequences of the terrorist threat on our own soil.

Question 2: Ms. Pérez, what concrete steps is the Department taking to address the disparities in the Department's hiring of women and people of color, particularly in management positions?

What results have you seen from the actions taken to address these disparities?

Response: DHS has identified eight core leadership competencies that comprise a critical element in each executive's performance plan. These requirements are cascaded to managers and supervisors in our new performance management system. One of these competencies is "Diversity Advocate". The complete list and descriptions follow:

1. Principled—adheres to the highest ethical standards of public service and promotes a culture of integrity within DHS.
2. People Centered—engages, values, motivates, mentors, recruits, clearly directs and appropriately rewards DHS employees. Fosters a safe working environment.
3. Effective Communicator—defines the mission for subordinates, colleagues and external partners with clarity; listens effectively and shares information, as appropriate.

4. Performance Centered—establishes and meets clear, measurable and meaningful goals in a timely manner, and uses good judgment in decision making.
5. Diversity Advocate—promotes workforce diversity; provides fair and equitable recognition and equal opportunity, promptly and appropriately addresses allegations of harassment or discrimination.
6. Highly Collaborative—partners effectively within and across DHS components and, as appropriate, with international, federal, state, local, tribal and private sector partners.
7. Nimble and Innovative—brings nimble, creative discipline to encourage continuous innovation in support of the DHS mission.
8. Steward of Public Resources—ensures financial and managerial accountability in executing fiduciary responsibilities and appropriately protects classified and other security-sensitive information.

The Office of the Chief Human Capital Officer and the Officer for Civil Rights and Civil Liberties are addressing challenges in the areas of diversity and specifically in our leadership ranks through these steps:

- Developing a corporate Diversity Strategy
- Reinforcing diversity objectives with each DHS component leader
- Spearheading corporate participation in job fairs (e.g., FOSE, LULAC, Black Engineers, etc.)
- Completing a year-long review of DHS employment policies and practices to identify barriers to full employment and retention
- Expanding scholarship and internship opportunities for Minority Servicing Institutions
- Planning a Department-wide annual “Diversity Day” event
- Initiating a formal mentoring program
- Establishing an Executive Leadership Development Program
- Creating a Senior Management Rotation Program

Question 3.: According to the most recent OPM Human Capital Survey, 51 percent of DHS employees feel they do not have sufficient information to do their jobs. **What steps are being taken to ensure supervisors are aware of employee needs?**

Response: The challenges of establishing a new Department whose mission has been impacted by 9/11 and is as important as the protection of our homeland greatly intensify the need for proactive communications. At times, the information to share with employees is evolving as policies are being developed. However, we continue to make significant progress towards communicating effectively with all employees. Below are some of the steps we are taking to improve communications:

- Communication is one of the eight competencies used in the performance ratings of executives. See “Effective Communicator” in Question 2.
- We are improving the DHS intranet so employees can have better access to information.
- Our new performance management system is built around ongoing conversations between the supervisor and employee about work requirements, knowledge sharing, and training needs.
- All new supervisors and managers are required to attend “Results Driven Communications for Supervisors.” This 5 day course provides the tools they need to effectively guide performance.
- A new web based training course for supervisors focuses specifically on the type of communication expected of a supervisor or a manager to sustain a high performance culture in the Department.
- The Department included an array of communications initiatives in our Federal Human Capital Survey Action Plan to ensure that senior leaders communicate to the broadest range of employees by methods including Town Hall meetings and an updated DHS website.
- We have cascaded the requirement for communications initiatives to components to ensure they are actively engaged in improving communication at the component level.
- We are actively engaging with labor organizations and other employee representatives to garner additional views about the Department’s policies and programs.
- We are holding focus groups across the Department to understand what types of communication employees feel is lacking and how we could share information better; we will make adjustments accordingly.
- Finally, we are implementing a new suggestion program Department-wide which will enhance our ability to use employees’ insights and creativity to make the Department a better place to work and improve our service to the public.

Question 4.: What internal processes are in place for DHS employees to anonymously inform supervisors of problems they face, such as those highlighted by the OPM Survey?

Response: While the survey provided valuable information about areas needing attention, we are in the process of conducting Department-wide, cross-component focus groups in the May/June timeframe to obtain specific insights and recommendations from employees. These focus group sessions provide employees an interactive forum to discuss a variety of topics in an anonymous environment. Additional programs will be based on feedback from focus groups.

To ask anonymous questions specifically related to the DHS Performance Management Program, employees have access to an employee email box which has been in place since before the new program was implemented.

Where an employee's concerns remain unresolved, they may pursue those concerns through one of the many dispute resolution processes and parties available to them, including:

- DHS Administrative Grievance Procedure
- Management investigation and reviews
- DHS Inspector General (Waste, Fraud, or Abuse)
- Office of Special Counsel (Prohibited Personnel Practices)
- DHS Office of Civil Rights and Civil Liberties (Statutory Discrimination Claims)
- DHS Office of Ethics (Ethical Violations)
- Component Office of Professional Responsibility (Internal Affairs)
- Component EEO Office (same as above)
- Component Ombudsman (Tour Of Duty hours, Denial of Leave, Performance Review/Appraisal)
- Collectively bargained grievance procedures
- U.S. Department of Labor (ULP, USERRA, FMLA, Workman's Compensation)

Question 5.: During your testimony, you discussed the Department's diversity goals. Specifically, what are the Department's goals in terms of diversity? What is the current breakout by component?

Please use the same breakdown used by OPM's Federal Human Capital Survey and sort based upon ethnicity, gender, grade level, supervisor/non-supervisor.

Additionally, within CBP, TSA and ICE, please break out by organization within component; i.e. Border Patrol, Office of Field Operations, Office of Information and Technology.

Response: To date, each component has been addressing diversity issues on its own. We are now in the process of developing a department-wide Diversity Strategy that will incorporate the components initiatives. The new Department policy on Diversity will focus on improving our diversity in three primary areas:

1. Acquisition of Talent

- To recruit, hire, develop, and retain the most qualified, diverse workforce at entry, mid-career, and senior levels. This includes the Department's commitment to recruit at Minority Serving Institutions (MSIs), Historically Black Colleges and Universities (HBCUs), Tribal Colleges and Universities, and Hispanic Serving Institutions. Relative to hiring, we require each component to conduct the broadest outreach based on the demographics of its organization.

2. Learning and Development

- To provide a pipeline for advancement into senior managerial and leadership positions by ensuring that scholarship, internship and other learning and development opportunities exist for all employees within the Department.

3. Capacity Building/Research

- To ensure that Historically Black Colleges and Universities (HBCU's) and other Minority Servicing Institutions (MSI's) are given the appropriate opportunity to participate in the grants process for research efforts that originate within DHS.

Attached, please find the requested diversity breakout by component.

QUESTIONS FROM THE HONORABLE CHRISTOPHER CARNEY, CHAIRMAN,
SUBCOMMITTEE ON MANAGEMENT, INVESTIGATIONS, AND OVERSIGHT

Question 6.: Our understanding is that contrary to past practice, employee work schedules at CBP have been determined to be exempt from

union input, and that CBP management has unilaterally denied employee input into this type of routine workplace decision-making.

Do you believe that CBP Officers, who are on call 24 hours a day, 7 days a week, should not have a say in their work schedule?

If so, please describe what input you believe they should have and what mechanisms are in place or are being put in place to address this.

Are you training CBP managers to include employee input in their scheduling decisions?

How are you ensuring that if managers are abusing their scheduling authority to favor or punish workers that there is some avenue of redress for the employees?

Response: We believe that communicating with employees and their representatives is always a good idea and we do. However, at the risk of being repetitious, the nature and underlying premise of the work we do has changed. With that change comes the need to be more flexible and nimble.

In 2001, U.S. Customs Service established a National Inspection Assignment Policy (NIAP) for its Customs Officers. U.S. Customs and Border Protection (CBP) later expanded the application of this Policy to all inspection personnel, including employees transferred to CBP from the former Immigration and Naturalization Service and U.S. Department of Agriculture Plant Protection and Quarantine. This Policy has been in place for all CBP Officers and Agriculture Specialists since June of 2004.

Given CBP's critical national security mission, including the prevention of terrorist and terrorist implements from entering the United States, it is important that it adopt and maintain mission-centered policies, particularly with respect to assignment and scheduling of inspection personnel. With this in mind, the NIAP was designed to ensure the delivery of outstanding service; to enable CBP managers and supervisors to respond to mission and workload demands quickly and efficiently; to maximize the effective use of overtime; and to provide uniformity, efficiency, and fairness in the assignment of employees.

Although principally driven by workload requirements, available level of staffing to perform job tasks, budget constraints and other operational considerations, managers are encouraged to engage employees and their representatives so that their interests may be considered when making and implementing scheduling decisions. For example, to the extent possible, overtime assignments are assigned on a voluntary basis, providing the voluntary nature of the assignment process does not drastically increase cost. In addition, managers and supervisors have the authority to entertain and approve employee requests for shift swaps or excusals from overtime assignments.

In the event an employee (or his/her union) believes that a manager or supervisor has not established schedules or assigned work in a manner consistent with the Policy, (s)he may seek redress through the applicable grievance procedure, all of which provide for higher level review of the responsible official's decisions.

Question 7.: When he appeared before the Full Committee on February 9, Secretary Chertoff stated that performance-based evaluations would go forward within the bounds of the Court decision on MAX HR. What steps have been taken to train supervisors on conducting performance-based evaluations?

Response: Over 14,000 of the department's managers and supervisors have now taken the DHS Performance Leadership Training. This is a noteworthy accomplishment and a significant milestone in the implementation of the new DHS Performance Management program. It also marks the first enterprise-wide leadership training the department has conducted since its creation. By the way, this is an area where the Department excels.

The training program has played an integral role in ensuring that managers understand the new performance management program and receive the tools and support they need to effectively guide employee performance. The training focuses on developing the skills that will enable managers to have meaningful conversations with employees where goals are set and expectations are clearly articulated. It helps managers:

- Clarify priorities to use in setting a work group's direction
- Develop performance plans that clarify how to achieve mission critical objectives
- Manage individual and organizational work unit performance
- Communicate performance expectations, monitor performance, reward good performance, and deal with poor performance

DHS managers and supervisors now have a common framework and language to use as they implement performance management. This common framework will es-

tablish the foundation for sustaining a high-performance culture within DHS and ensure a consistent approach to performance management throughout the department. We have engaged employee representatives as appropriate in the design and development of our performance management program.

Question 8.: How has the Department solicited advice from NTEU or AFGE concerning the training of supervisors to conduct performance-based evaluations? Please describe any meetings, focus groups, or other methods.

How has this advice been incorporated into the Department's plans?

Response: Beginning in February 2005, both NTEU and AFGE were actively involved in the development and implementation of the performance management policy via the continuing collaboration process. This process provided employee representatives an opportunity to submit written comments and/or to discuss their views with DHS officials on final draft implementing directives. Employee representatives were also involved in focus groups used to design the program, develop the DHS core competency model, validate performance standards for each type and level of work in the core competency model, and selection of an e-performance tool to facilitate the performance management process. I have met with NTEU President Colleen Kelley and AFGE President John Gage and have promised to maintain an ongoing dialogue.

Question 9.: President Kelley of NTEU testified that the President and TSA have statutory flexibility to respond in times of crisis. In light of this, can you explain how granting TSA screeners collective bargaining rights could harm national security or prevent TSA from fulfilling its mission?

Response: In the Aviation and Transportation Security Act, which established TSA, Congress recognized that special flexibility for personnel performing key homeland security roles is critical. Passage of the Homeland Security Act of 2002, which established the Department of Homeland Security (DHS), was delayed over debate over this same fundamental question. Existing authorities permit TSA to flexibly manage and deploy its workforce, including its Transportation Security Officer (TSO) workforce, in carrying out important security work directly affecting national security. In exercising these authorities, TSA is committed to ensuring that employees are treated fairly, consistent with merit system principles. During Hurricane Katrina and after the United Kingdom (UK) air bombing plot was foiled, TSA changed the nature of employees' work—and even the location of their work—to quickly and effectively respond to these emergencies. For example, after the UK air bombing plot was discovered, TSOs employed new standard operating procedures within hours to deal with the new threat. This flexibility is key to how DHS, through TSA, protects Americans while they travel, both at home and abroad. Eliminating these authorities, would significantly diminish the Department's ability to respond quickly to security threats and would ultimately reduce transportation security.

Question 10.: What are the primary distinctions between MaxHR and HCOP? Specifically, what aspects of MaxHR were not included in HCOP because of employee concerns?

What aspects of MaxHR did employees find most objectionable, and what has the Department done to address those concerns in HCOP?

Response: The term MAX^{HR} was a brand that was used to identify the program developed in response to the Homeland Security Act of 2002 and focused on six specific elements—performance management, classification, pay, labor relations, adverse actions and appeals. Leadership training, hiring, and diversity themes were not part of MAX^{HR}.

"HCOP" is an acronym for the Human Capital Operational Plan which outlines the Department's human resources priorities for fiscal year 2007—2008.

The perception that the Human Capital Operational Plan is "replacing" MAX^{HR} is a misunderstanding. Establishing the Plan and identifying priorities signals a shift in emphasis from the limited areas initially covered under MAX^{HR}, to a broader, more comprehensive approach. Although we continue to deploy programs initiated under MAX^{HR}, such as the DHS Performance Management Program, we are discontinuing use of the term "MAX^{HR}" and will focus on a broader, more comprehensive set of priorities including key elements such as talent management, leadership development, training, and service excellence.

The Human Capital Operational Plan was developed in collaboration with component representatives, based on their knowledge of their organization and workforce, and serves as a framework for component leaders and human capital advocates to

work in partnership on initiatives related to hiring, retention, learning and development, leadership, service excellence, and building a culture of performance.

With regard to aspects of MAX^{HR} employees may have found objectionable and what the Department has done to address those concerns, I believe there has been a bit of a misrepresentation about the intent of the flexibilities. An example is the representation that the Department intended to reduce employee rights. We are working with the components and the unions to dispel that misconception. The one area that is new and that requires extensive communication and training is the implementation of a new pay system. While employees in other parts of the government where the pay system has changed grow to like it, there is an initial period of concern. However, we plan to move slowly with regard to changes to the pay system and first ensure performance management is well implemented.

Employees were included throughout the design process of the programs under MAX^{HR} and their concerns were addressed at those times. This included employee involvement in focus groups, through surveys, through employee email boxes, and as part of technical advisory groups. Employees conveyed extensive interest in the design work being conducted and some concern on a variety of issues, and the input received was used to modify the development of programs to the extent possible.

As the Department moves forward with the priorities and activities identified in the Human Capital Operational Plan, we will continue to include employees in the process so their views are heard and incorporated.

Question 11.: As you know, the adverse action and appeals provisions in the DHS personnel regulations were ruled illegal and a stay was imposed on the rule in 2005 by U.S. District Judge Rosemary Collyer, who said "the regulations put the thumbs of the agencies down hard on the scales of justice in [the agencies'] favor." The appellate court, however, said the planned changes in adverse action and appeal rights were not yet "ripe" for a decision since no one has been subject to discipline under them. Still, the appeals court agreed with Collyer's basic conclusion regarding the lack of fairness. Despite the Court rulings, DHS announced on March 7, 2007 that they intend to implement provisions of the regulations not specifically struck down by the Courts including these provisions limiting due process and appeal rights. What has the Department done to address the courts' rulings?

Response: The Department and the Office of Personnel Management, in collaboration with labor organizations, designed the adverse actions and appeals system as a fair, efficient and expeditious means of handling employee performance and disciplinary issues. The Court approved much of the system and reserved judgment as to the rules' standard for mitigation of penalties before the Merit Systems Protections Board and arbitrators until faced with an actual case in controversy. As such, that regulation is not enjoined and is available for implementation by the Department. It also in no way diminishes employees' due process rights. The Department has engaged and will continue to engage with labor organizations in a dialogue on this issue and other areas of the regulations.

Question 12.: In implementing the PASS for Transportation Security Officers;

(a) What process is provided to employees who disagree with their supervisor's rating or the final decision?

TSA has a grievance policy that lays out the process that employees can use to have their rating reviewed by a higher level official.

(b) How are employees treated who leave or are promoted after the rating period but before performance evaluation decisions are made?

All employees on board on the final day of the performance period (September 30) will receive a Final Rating. All employees that receive a Final Rating and are still employed by TSA on the effective date of the pay-out (typically the first week in January) are entitled to and will receive their PASS related performance increase and/or bonus.

(c) Will you continue to have a monetary awards program in addition to annual pay adjustments and bonuses based on performance?

Yes.

(d) What changes, if any, do you intent to make to the awards program?

With regards to annual pay adjustments and bonuses based on performance, TSA is looking at changing the number of ratings levels from 4 to 5 to better reflect the differences in performance levels of our workforce. This change to a 5-level rating system may have a positive impact on the number of employees eligible for an annual pay adjustment.

(e) Do you guarantee a minimum increase equivalent to the annual general increase provided for employees for satisfactory performance?

All TSA employees receive an annual pay increase commensurate with the cost of living adjustment (COLA) received by all other Federal employees. All employees receive the same locality adjustments as other Federal employees. TSA's annual pay increase is called the Comparability Equivalent Increase (CEI). In addition, TSOs are covered by PASS and may be eligible for a PASS increase, and/or a PASS bonus based on PASS rating. The PASS increase and PASS bonus are in addition to the CEI. For example, in January 2007, a TSO with a PASS rating of Exceed Standards received the CEI (1.7% pay increase) plus a PASS pay increase of 3% plus a PASS bonus of \$2,000 paid in a lump sum.

(f) What is the formula you intend to use to establish the pool for pay adjustments and bonuses? Is the formula set by the department, by components, or by the manager of each pay pool?

The pool for pay adjustments and bonuses is determined by estimating the number of Transportation Security Officers (TSO) and their expected Performance Accountability and Standards System (PASS) ratings. This is determined by the Transportation Security Administration (TSA).

(g) Under what conditions is this formula subject to change?

This is subject to change when modifications to the PASS rating system occur.

(h) Do you intend to have separate pools for supervisors and non-supervisors?

Supervisors and Non-Supervisors in the TSO workforce are covered under PASS.

(i) Will employees with the same ratings be treated the same for pay-out purposes?

Yes, PASS is a system with national standards and national payouts.

(j) If not, what factors will affect the differences in pay-out?

N/A

(k) How do you ensure transparency in the decision making process?

Payout levels are determined at the national level and are driven by budget availability and the number of employees that have reached each performance level. The integrity of rating process is maintained by the fact that more than 65% of an employee's final rating is determined by objective measures. In addition, in 2006 the system employed a number of "business rules" that ensured that the subjective ratings did not overshadow the objective ratings.

(l) How do you ensure that women and minorities are treated fairly?

Payout levels are determined at the national level and are driven by budget availability and the number of employees that have reached each performance level. The integrity of the rating process is maintained by the fact that more than 65% of an employee's final rating is determined by objective measures. In addition, in 2006 the system employed a number of "business rules" that ensured that the subjective ratings did not overshadow the objective ratings.

Question 13.: The Department of Homeland Security ranked nearly last in every category of the 2006 Federal Human Capital Survey. The Human Capital Operational Plan (pronounced: H-COP), which contains provisions of MaxHR not enjoined by the courts, seeks to address many of the concerns expressed by employees in the Survey. Unfortunately, last month this Committee adopted by a party-line vote an amendment to the DHS authorization bill that would repeal the Department's personnel management flexibility, which will halt the implementation of HCOP.

Please discuss the impact of this amendment on the Department and the Secretary's ability to manage the DHS workforce.

In the event this provision is enacted into law, what would the Department do?

What are the major benefits of HCOP and what improvements would it make compared to the decades-old General Schedule (GS) personnel system?

What provisions of MaxHR are included in the Human Capital Operational Plan(HCOP)?

Response: We do not support the provisions in H.R. 1684 that would repeal the personnel flexibilities provided in the Homeland Security Act of 2002. DHS needs a human resources management system designed to meet the diverse personnel requirements faced by the Department. As conveyed during consideration of the Department's original authorization in 2002, the Administration believes that DHS personnel management must strike a careful balance between the flexibility needed

to defend against a ruthless enemy and the fairness needed to ensure employee rights. This legislation threatens that balance.

Flexibility is needed given the Department's role in preparing for and responding to ever-changing homeland security threats. Eliminating these authorities would significantly diminish the Department's ability to respond quickly to security threats and would negatively impact the security of the Nation.

"HCOP" is an acronym for the Human Capital Operational Plan, which outlines the Department's human resources priorities for fiscal year 2007—2008. This Plan was developed in collaboration with component representatives and serves as a framework for component leaders and human capital advocates to work in partnership on initiatives related to hiring, retention, learning and development, leadership, service excellence, and building a culture of performance.

The priorities outlined in the Human Capital Operational Plan address classification, performance management and my office's commitment to support components with labor and employee relations issues.

Question 14.: You, Secretary Chertoff, Deputy Secretary Jackson, and Under Secretary for Management Schneider have made improving morale at the Department a top priority and you have been attempting to address employee concerns from the Federal Human Capital Survey.

If the Department of Homeland Security is forced to roll back the clock and revert to the General Schedule (GS) personnel system, how will you address issues such as only 15% of DHS employees responding to the Federal Human Capital Survey agreeing that "pay raises depend on how well employees perform their jobs" and only 22% believing that "promotions in my work unit are based on merit"?

Don't these statistics illustrate that DHS employees support a pay for performance structure like the one included in HCOP?

Response: We believe the survey results indicate that DHS employees support a pay for performance system. A broad banded pay system that is reliant for base pay adjustments on the linkage between performance and pay is a powerful mechanism for motivating employees and demonstrating the relationship between the accomplishment of work and resulting pay. While the General Schedule provides opportunities to reward performance it is fundamentally a time-based system. Our employees have said loudly that the current pay is not up to par. The Partnership for Public Service in its testimony supported our position, and even the GAO has moved to a pay for performance environment.

Question 15.: In your testimony the Department plans to offer a DHS 101 module. Could you talk a little more about the module?

When will it be rolled out?

Are all DHS employees required to participate?

How will this benefit the employees?

Response: DHS 101 is a new multi-media, interactive, online awareness course. The Target Audience is primarily all current and new employees. The secondary audience is the general public and external audiences such as: interagency, intra agency employees, leadership and contract support staff as well as people within State, local and tribal government, academic, practitioner and other stakeholder arenas.

The purpose of the module is to establish the baseline for standardized broad-based organizational knowledge; provide understanding of the DHS organization and its Components' roles, missions and program areas; and provide a foundation for DHS mission-oriented culture. The online format ensures consistent delivery of required course content while increasing its retention and practical application. The course will establish organizational context to enhance effectiveness on the job for new and existing DHS employees, interagency partners and other stakeholders.

DHS 101 is an essential element of an enterprise-wide effort to strengthen and unify DHS operations and management. It is a first step in a process of developing varied learning and development opportunities that enhance mission awareness and foster a "Team DHS" culture. DHS 101 is designed to serve as a core prerequisite for other courses and programs and will provide the basis for an expanded in-residence experience.

Delivered in a flexible, expandable, appealing format, DHS 101 incorporates, updates, and significantly enhances the existing information available about the Department. Initial roll out of the module is expected in September of this year. A system of measurement will be established to ensure participants demonstrate an understanding of learning objectives upon completion.

DHS 101 will be accessible through www.DHSonline.gov for internal employees and will be linked with the OCHCO Learning and Development Home page and DHS Learning Management Systems (LMS) and Component Portal. In time, DHS

may grant access to external audiences such as: interagency, state, tribal and local government, academics, and other stakeholders as well as the general public.

Expected benefits for DHS employees of DHS 101 include:

- Establishes standardized, broad based organizational knowledge such as: who DHS is, why DHS exists, where DHS comes from and where it is going in the homeland security arena, mission, role and associated relationships, roles and missions of DHS Components to provide relevant knowledge, understanding and significance of the DHS organization and DHS culture to new and existing employees.
- Increases the retention and application of required content; provides context for each employee's job.
- Serves as a mandatory core course for employee orientation.
- Can serve as a prerequisite to other courses (such as proposed follow on interactive classroom course).
- Maximizes and enhances learner's future classroom time and learning.
- Allows learner to interact sooner and at a higher level of engagement on the job; increases productivity through inclusiveness and effective orientation to the organization.
- Allows learner to take responsibility for contributing value to the organization.
- Provides consistent content and cost effectiveness—reduces travel and classroom time, delivery expenses, etc.
- Offers maximum accessibility, reaching internal and external target audiences 24/7.

Question 16.: Please discuss your Recruitment Summit with the DHS Office of Civil Rights and Civil Liberties.

Going forward, what did you learn from the Summit that you plan to apply to future recruitment efforts?

Response: The first Department of Homeland Security (DHS) Recruitment Summit on March 7, 2007, began with a welcome from the Chief Human Capital Officer and Officer for Civil Rights and Civil Liberties. Both expressed their appreciation to the group for their willingness to participate in what was intended to be the first step in developing a continuing relationship aimed at recruiting, hiring and retaining a qualified diverse DHS Workforce. After introductions, there was a discussion of the current status of minorities and women in the Department.

Initiatives discussed included:

- Spearheading DHS corporate-level participation in job fairs (e.g., FOSE, LULAC, Black Engineers, etc.)
- Meeting with each DHS Component Head to reinforce diversity objectives
- Completing a year-long review of DHS employment policies, practices, and complaints of discrimination to identify barriers to full employment and retention
- Expanding scholarship and internship opportunities for Minority Servicing Institutions
- Increasing participation in our leadership development programs.
- Identifying and expanding initiatives that will help retain a diverse workforce.

A study conducted by Women in Federal Law Enforcement found that women identified family friendly policies and sexual harassment as issues related to retention. The isolation of many Border Patrol positions was considered a problem for both men and women. As a counter, it was pointed out that with development of career paths, the Border Patrol Agents could serve as feeder positions for other enforcement and investigative officers.

Going forward the Department will act on the following recommendations from the attendees:

- Stress strong leadership and accountability at all levels. Both were described as paramount to success.
- Implement learning and development strategies at all levels. Development was seen as a key for the progression of internal candidates.
- Attract candidates from other Departments. Mobility was described as contributing to the development of well rounded candidates and an asset whether obtained through movement across DHS agencies or in other Departments.
- Expand the Recruitment Summit to include more non-governmental professional organizations.
- Conduct workshops and meetings with local chapters of national organizations. Such engagements were considered excellent ways to connect with possible recruits.

- Give school presentations to introduce students to career possibilities.
- Consider the use of on-site delegated examining and hiring authorities as a key to competing for candidates.
- Solicit resumes in advance of going on site to identify top candidates.
- Develop mentoring programs including the use of retired senior executives.

Question 17.: When will the Department of Homeland Security University System be up and running? Which categories of DHS officials will be able to take advantage of the course offerings?

Response: The HS University System and its four program areas: Leadership Institute, Preparedness Center, Homeland Security Academy and Center for Academic & Interagency Programs are up and running.

Currently we have deployed several Leadership Institute programs including the DHS Fellows experience, SES–Career Development Program and a “Results Driven Communications for Supervisors” course.

The HS Preparedness Center is facilitating a pilot Critical Infrastructure Protection Qualification Course this June for DHS and interagency employees. Other Preparedness Center courses include the National Planning & Execution Systems Course, Homeland Security Strategic Studies, and a Terrorism/Countering Terrorism Course.

The Homeland Security Academy, which cultivates strategic analysis and decision making skills through a fully accredited graduate degree program, will be piloted in June 2007 in the National Capital Region at the Federal Executive Institute in West Virginia. The Center for Academic & Interagency Programs supports all HS University System Program areas by establishing relationships with academe and interagency partners. For example some of the Preparedness Center Programs will be financially supported in fiscal year 07/08 by DoD.

Question 18.: DHS employees have gone through three reorganizations in just over four years—the creation of DHS in 2003; implantation of the Secretary’s Second Stage Review in 2005; and now reform of FEMA.

In your view, what impact do such reorganizations have on employees and could this have been a major contributing factor to the low rankings in the OPM survey?

Do you believe morale among DHS employees would improve if the Department’s organizational structure had time to solidify, thereby providing more certainty to employees?

Response: Reorganizations, like any major change, are not easy. It takes time for people affected by change to fully accept and commit to a new organization. In its short history, the Department has gone through a series of organizational changes, which have directly affected DHS employees in a variety of ways and no doubt have had an impact on the results of the Federal Human Capital Survey. Nonetheless, DHS employees have accomplished much to protect our Nation, and they remain committed to the homeland security mission.

In an effort to ensure employee satisfaction and our continued success, one of the Secretary’s Near-Term Goals is to strengthen and unify DHS operations and management—this includes taking steps to improve hiring and retention programs, build career paths, and enhance Department-wide training and leadership development opportunities. With time, and through the continued commitment of DHS leadership, enhanced employee communications and human resources programs, these efforts will further transform DHS into a single, unified agency where employees feel more part of a “Team DHS” culture.

Question 19.: The Administration has proposed consolidating many of the DHS facilities in the National Capital Region in one central location at the campus of St. Elizabeth’s Hospital in the District of Columbia.

In your view, what impact would this centralization of DHS facilities have on the morale and performance of DHS employees who work in the Washington, DC area?

Response: Initially, like any change, the move may be expected to have a short term negative impact on morale. But in the long term, it is expected to be an improvement and plans are being developed to minimize negative consequences. More than 60 buildings housing DHS employees are currently scattered widely throughout the National Capital Region. A single campus facility will improve operational effectiveness and efficiency. A single campus headquarters will help foster a “Team-DHS” culture that will compliment other Department efforts to elevate employee morale. Moreover, it will offer a tremendous opportunity to create a secure, state-of-the-art Federal campus focused on achieving the Department’s core mission objectives.

The Department is working with the General Services Administration (GSA) on a Housing Master Plan for DHS and the St Elizabeths facility. The Housing Master Plan addresses:

- Unique and specialized requirements of the Department's components and employees
- Opportunities for improved organizational efficiencies through functional integration and shared services provided at a single campus facility
- Individual component working relationships
- Anti-terrorism and force protection considerations
- Suitability to the functions being housed

The Department is also concerned with how the move would impact our employees personally from a transportation perspective. DHS and GSA are working together to develop a comprehensive Transportation Management Plan that addresses employees' transportation needs. The first component of that Plan, an employee survey on transportation needs, is already underway.

The Distribution of Department of Homeland Security Permanent Workforce by Component, Supervisory Status, Pay Plan, Grade, Ethnic Group, and Gender

Component	Supervisory Status	Pay Plan	Grade	African American		American Indian or Alaska Native		Asian or Pacific Islander		Hispanic		White		Other	
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
DHS Headquarters	Non-Supervisor	GS/GM/GG/GH/GL	4	0	0	0	0	0	0	0	0	1	1	0	0
			5	0	0	0	0	0	0	0	0	1	1	0	0
			6	0	0	0	0	0	0	0	0	1	1	0	0
			7	0	0	0	0	0	0	0	0	4	21	0	0
			8	0	0	0	0	0	0	0	0	0	0	0	0
			9	0	0	0	0	0	0	0	0	0	0	0	0
			10	0	0	0	0	0	0	0	0	0	0	0	0
			11	0	0	0	0	0	0	0	0	0	0	0	0
			12	0	0	0	0	0	0	0	0	0	0	0	0
			13	0	0	0	0	0	0	0	0	0	0	0	0
			14	0	0	0	0	0	0	0	0	0	0	0	0
			15	0	0	0	0	0	0	0	0	0	0	0	0
			SES	0	0	0	0	0	0	0	0	0	0	0	0
			Other	0	0	0	0	0	0	0	0	0	0	0	0
	Supervisor	GS/GM/GG/GH/GL	14	0	0	0	0	0	0	0	0	0	0	0	0
			15	0	0	0	0	0	0	0	0	0	0	0	0
			SES	0	0	0	0	0	0	0	0	0	0	0	0
			Other	0	0	0	0	0	0	0	0	0	0	0	0
			Wage Grade	0	0	0	0	0	0	0	0	0	0	0	0
Bureau of Customs & Border Protection	Non-Supervisor	GS/GM/GG/GH/GL	2	1	2	0	0	0	0	0	0	1	0	0	0
			3	0	0	0	0	0	0	0	0	0	0	0	0
			4	0	0	0	0	0	0	0	0	0	0	0	0
			5	14	17	7	2	26	2	0	0	761	127	880	182
			6	0	0	0	0	0	0	0	0	18	47	218	97
			7	111	209	13	2	119	63	0	4	1,039	329	1,562	804
			8	1	24	0	0	1	0	0	0	1	10	14	23
			9	0	0	0	0	0	0	0	0	0	0	0	0
			10	0	0	0	0	0	0	0	0	0	0	0	0
			11	0	0	0	0	0	0	0	0	0	0	0	0
			12	0	0	0	0	0	0	0	0	0	0	0	0
			13	0	0	0	0	0	0	0	0	0	0	0	0
			14	0	0	0	0	0	0	0	0	0	0	0	0
			15	0	0	0	0	0	0	0	0	0	0	0	0
			SES	0	0	0	0	0	0	0	0	0	0	0	0
			Other	0	0	0	0	0	0	0	0	0	0	0	0
			Wage Grade	0	0	0	0	0	0	0	0	0	0	0	0

The Distribution of Department of Homeland Security Permanent Workforce by Component, Supervisory Status, Pay Plan, Grade, Ethnic Group, and Gender

Component	Supervisory Status	Pay Plan	Grade	African American		American Indian or Alaska Native		Asian or Pacific Islander		Hispanic		White		Other	
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
DHS Headquarters	Non-Supervisor	GS/GM/GG/GH/GL	11	736	599	0	0	785	211	11	8	7,099	1,208	9,239	2,077
			12	26	148	0	0	32	37	11	0	258	97	845	494
			13	79	309	0	0	45	55	0	0	152	79	1,056	520
			14	39	63	0	0	14	8	0	0	37	18	417	238
			15	1	1	0	0	1	1	0	0	2	0	21	22
			Wage Grade	13	0	0	0	21	0	0	0	180	1	176	8
	Supervisor	GS/GM/GG/GH/GL	8	0	0	0	0	1	0	0	0	0	0	1	0
			9	0	0	0	0	0	0	0	0	0	0	0	0
			10	0	0	0	0	0	0	0	0	0	0	0	0
			11	4	1	0	0	1	0	0	0	0	0	0	0
			12	130	94	17	2	77	28	0	0	1,034	177	1,758	134
			13	41	39	0	0	18	4	0	0	333	0	747	399
			14	26	53	0	0	14	11	0	0	175	29	511	147
			15	14	20	0	0	4	4	0	0	29	13	233	69
			SES	0	0	0	0	0	0	0	0	0	0	0	0
			Other	0	0	0	0	0	0	0	0	0	0	0	0
			Wage Grade	0	0	0	0	0	0	0	0	0	0	0	0
Citizenship & Immigration Services	Non-Supervisor	GS/GM/GG/GH/GL	2	0	0	0	0	0	0	0	0	0	0	0	0
			3	0	0	0	0	0	0	0	0	0	0	0	0
			4	0	0	0	0	0	0	0	0	0	0	0	0
			5	0	0	0	0	0	0	0	0	0	0	0	0
			6	0	0	0	0	0	0	0	0	0	0	0	0
			7	0	0	0	0	0	0	0	0	0	0	0	0
			8	0	0	0	0	0	0	0	0	0	0	0	0
			9	0	0	0	0	0	0	0	0	0	0	0	0
			10	0	0	0	0	0	0	0	0	0	0	0	0
			11	0	0	0	0	0	0	0	0	0	0	0	0

The Distribution of Department of Homeland Security Permanent Workforce by Component, Supervisory Status, Pay Plan, Grade, Ethnic Group, and Gender

Component	Supervisor Status	Pay Plan	Grade	African American		American Indian or Alaskan Native		Asian or Pacific Islander		Hispanic		White		Other	
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
				SES	Wage Grade	SES	Wage Grade	SES	Wage Grade	SES	Wage Grade	SES	Wage Grade	SES	Wage Grade
	Supervisor	GS/GM/GG/GH/GL	9	22	86	0	4	18	17	0	0	19	37	133	237
			11	28	57	1	1	28	26	0	0	28	42	152	192
			12	98	238	5	10	112	94	0	1	148	328	733	850
			13	29	53	2	3	9	18	0	0	20	22	142	196
			14	18	42	0	1	11	11	0	0	8	11	50	93
			15	1	2	0	0	2	3	0	0	1	4	41	46
			SES	0	0	0	0	0	0	0	0	0	0	1	0
			Wage Grade	1	0	0	0	0	0	0	0	1	0	0	0
	Supervisor	GS/GM/GG/GH/GL	6	1	1	0	0	0	0	0	0	0	1	0	0
			7	0	13	0	0	0	2	0	0	0	3	3	8
			8	2	5	0	0	1	3	0	0	1	6	4	7
			9	0	13	0	0	2	2	0	0	4	13	5	16
			10	5	17	0	1	2	1	0	0	3	10	10	33
			11	2	0	0	0	0	1	0	0	0	2	12	0
			12	1	7	0	0	2	3	0	0	1	4	9	25
			13	17	40	0	0	20	17	0	0	21	46	150	147
			14	8	23	0	1	4	6	0	0	8	13	59	86
			15	7	10	1	0	3	2	0	0	8	7	66	63
			SES	1	0	0	0	0	0	0	0	1	0	14	11
			Wage Grade	0	0	0	0	0	0	0	0	1	0	0	0
Domestic Nuclear Detection Office	Non-Supervisor	GS/GM/GG/GH/GL	11	0	0	0	0	0	1	0	0	0	0	0	0
			12	0	0	0	0	0	0	0	0	0	0	0	0
			13	0	1	0	0	0	1	0	0	0	0	0	0
			14	0	1	0	0	0	0	0	0	0	0	0	0
			15	1	0	0	0	1	1	0	0	0	0	1	0

The Distribution of Department of Homeland Security Permanent Workforce by Component, Supervisory Status, Pay Plan, Grade, Ethnic Group, and Gender

Component	Supervisor Status	Pay Plan	Grade	African American		American Indian or Alaskan Native		Asian or Pacific Islander		Hispanic		White		Other	
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
				SES	Wage Grade	SES	Wage Grade	SES	Wage Grade	SES	Wage Grade	SES	Wage Grade	SES	Wage Grade
Federal Emergency Management Agency	Non-Supervisor	GS/GM/GG/GH/GL	15	0	0	0	0	0	0	0	0	2	2	0	0
			SES	0	0	0	0	0	1	0	0	0	0	0	0
			7	0	1	0	0	0	0	0	0	0	0	0	0
			8	0	5	0	0	0	0	0	0	0	2	0	0
			9	2	7	0	0	0	0	0	0	1	6	0	0
			10	4	9	0	0	0	0	0	0	1	11	11	0
			11	17	34	1	1	3	2	0	0	2	35	43	0
			12	4	12	0	0	0	0	0	0	0	13	10	0
			13	0	29	0	1	3	0	0	0	2	4	22	34
			14	0	1	0	0	0	0	0	0	0	0	0	0
			15	0	33	0	0	1	2	0	0	0	2	40	31
			16	39	58	4	2	9	5	0	0	12	6	268	103
			17	35	98	0	1	7	4	0	0	5	4	203	122
			18	21	50	2	3	4	1	0	0	5	4	145	61
			19	5	4	0	1	2	1	0	0	2	1	11	18
			SES	0	0	0	0	0	0	0	0	2	1	0	0
			Wage Grade	4	0	2	0	0	2	0	0	1	0	149	29
			Other	2	1	0	0	0	0	0	0	3	0	0	0
	Supervisor	GS/GM/GG/GH/GL	9	0	0	0	0	0	0	0	0	7	0	0	0
			10	0	0	0	0	0	0	0	0	2	1	0	0
			11	0	0	0	0	0	0	0	0	2	0	0	0
			12	0	0	0	0	0	0	0	0	2	1	0	0

The Distribution of Department of Homeland Security Permanent Workforce by Component, Supervisory Status, Pay Plan, Grade, Ethnic Group, and Gender

Component	Supervisor Status	Pay Plan	Grade	African American		American Indian or Alaskan Native		Asian or Pacific Islander		Hawaiian		Hispanic		White		Other	
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Federal Law Enforcement Training Center	Non-Supervisor	GS/GM/ GG/GH/ GL	13	2	0	1	0	2	0	0	0	0	0	23	1	0	0
			14	7	5	1	0	0	0	0	4	3	80	14	0	0	
			15	111	10	0	0	3	0	0	1	0	103	28	0	0	
			SES	2	1	0	0	0	0	0	0	0	25	9	0	0	
			Wage Grade	0	0	0	0	0	0	0	0	0	0	0	1	0	0
			Other	0	0	0	0	0	0	0	0	0	0	1	0	0	0
			5	0	0	0	0	0	0	0	0	0	0	0	0	0	0
			6	0	0	0	0	0	0	0	0	0	0	0	0	0	0
			7	1	12	0	0	1	0	0	0	1	7	27	0	0	
			8	0	0	0	0	0	0	0	0	2	2	0	0	0	
			9	2	7	1	1	0	0	0	2	4	10	47	0	0	
			11	3	4	2	1	1	1	0	0	2	1	50	47	0	0
			12	5	0	2	0	1	1	0	0	0	0	134	14	0	0
			13	0	0	0	0	1	1	0	0	11	2	207	63	0	0
			14	1	0	1	2	0	1	0	0	0	1	19	9	0	0
			15	0	1	0	0	0	0	0	0	0	0	11	3	0	0
Immigration and Non-	Supervisor	GS/GM/ GG/GH/ GL	4	0	0	0	0	2	0	0	0	0	0	37	0	0	0
			12	0	0	0	0	0	0	0	0	0	1	0	0	0	
			13	0	0	0	0	0	0	0	0	0	0	0	0	0	0
			14	0	2	2	0	1	0	0	1	1	53	18	0	0	
			15	3	3	1	0	0	0	0	0	0	41	6	0	0	
			SES	1	0	0	0	0	0	0	0	0	4	3	0	0	
			Wage Grade	0	0	0	0	0	0	0	0	0	0	0	0	0	0
			5	0	0	0	0	0	0	0	0	0	2	0	0	0	
			6	0	0	0	0	0	0	0	0	0	0	0	0	0	0
			7	0	0	0	0	0	0	0	0	0	0	0	0	0	0

The Distribution of Department of Homeland Security Permanent Workforce by Component, Supervisory Status, Pay Plan, Grade, Ethnic Group, and Gender

Component	Supervisor Status	Pay Plan	Grade	African American		American Indian or Alaskan Native		Asian or Pacific Islander		Hawaiian		Hispanic		White		Other	
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Component: Customs Enforcement	Non-Supervisor	GG/GH/GL	4	3	4	1	0	1	0	0	0	2	1	7	12	0	0
			5	46	31	6	1	54	13	0	0	187	64	325	76	0	0
			6	0	27	0	0	6	6	0	0	13	26	26	65	1	0
			7	56	217	9	9	53	57	0	0	173	234	522	426	44	2
			8	43	17	2	0	3	2	0	0	22	8	155	71	0	0
			9	165	131	20	1	48	13	1	1	606	121	913	256	3	0
			10	0	0	0	0	0	0	0	0	0	0	1	0	0	0
			11	49	64	7	4	18	17	0	0	134	53	320	151	1	0
			12	138	114	7	2	43	36	3	0	265	101	982	776	3	2
			13	176	135	20	3	90	36	3	2	616	166	2,779	527	14	2
			14	43	72	4	2	33	23	0	0	106	84	948	303	2	0
			15	3	4	0	1	3	1	0	0	3	3	37	43	0	0
			Wage Grade	7	1	0	0	0	0	0	0	52	1	30	3	0	0
			5	0	0	0	0	0	0	0	0	0	0	1	1	0	0
			6	2	0	0	0	0	0	0	0	0	0	0	0	0	0
			7	1	4	0	1	0	3	0	0	1	3	5	1	0	0
			8	0	1	0	0	0	0	0	0	0	1	33	6	0	0
			9	30	8	1	0	8	2	0	0	76	8	92	14	2	0
			10	13	9	2	0	3	1	0	0	12	3	28	13	0	0
			11	20	20	3	0	4	4	0	0	78	17	109	12	1	0
			12	33	33	6	1	19	2	0	0	109	30	577	104	3	1
			13	14	12	1	0	5	3	0	0	49	15	313	83	0	1
			14	1	1	0	0	0	0	0	0	7	0	23	6	0	0
Office of the Inspector General	Non-Supervisor	GG/GH/GL	5	1	2	0	0	0	0	0	0	0	0	2	0	0	0
			6	0	1	0	0	0	0	0	0	0	0	0	0	0	0
			7	0	0	0	0	0	0	0	0	0	0	0	0	0	0

The Distribution of Department of Homeland Security Permanent Workforce by Component, Supervisory Status, Pay Plan, Grade, Ethnic Group, and Gender

Component	Supervisor Status	Pay Plan	Grade	African American		American Indian or Alaskan Native		Asian or Pacific Islander		Hawaiian		Hispanic		White		Other	
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
			7	0	1	1	0	0	0	0	0	0	0	4	5	0	0
			8	0	0	0	0	0	0	0	0	0	1	0	1	0	0
			9	0	4	0	0	1	2	0	0	0	3	2	0	0	0
			11	3	5	0	0	2	2	0	0	0	1	10	7	0	0
			12	11	14	1	0	4	2	0	0	2	7	19	0	0	0
			13	11	14	1	0	8	4	0	0	25	10	90	23	0	0
			14	4	0	0	0	1	1	0	0	4	1	12	6	0	0
			15	0	0	0	0	0	0	0	0	0	0	2	4	0	0
	Supervisor	GS/GM/GG/GH/GL	14	0	0	1	0	1	0	0	0	8	1	11	8	1	0
			15	2	8	0	0	0	0	0	0	0	0	30	8	0	0
			SES	0	0	0	0	0	0	0	0	0	0	7	1	0	0
Science and Technology Directorate	Non-Supervisor	GS/GM/GG/GH/GL	5	1	0	0	0	0	0	0	0	0	0	0	0	0	0
			6	0	0	0	0	0	0	0	0	0	0	0	2	0	0
			7	0	1	0	0	0	0	0	0	0	1	1	1	0	0
			8	0	1	0	0	0	0	0	0	0	0	0	1	0	0
			9	0	0	0	0	0	0	0	0	0	1	3	4	0	0
			11	1	1	0	0	0	0	0	0	1	4	3	0	0	0
			12	0	0	0	0	1	0	0	0	0	0	8	2	0	0
			13	1	2	0	0	2	0	0	0	1	0	13	11	0	0
			14	0	1	0	0	1	0	0	0	0	0	0	0	0	0
			15	0	2	0	0	1	1	0	0	0	1	51	15	0	0
			SES	0	0	0	0	0	0	0	0	0	0	1	0	0	0
			Wage Grade	1	0	0	0	0	0	0	0	1	0	0	1	0	0
			Other	0	0	0	0	0	1	0	0	1	0	13	4	0	0

The Distribution of Department of Homeland Security Permanent Workforce by Component, Supervisory Status, Pay Plan, Grade, Ethnic Group, and Gender

Component	Supervisor Status	Pay Plan	Grade	African American		American Indian or Alaskan Native		Asian or Pacific Islander		Hawaiian		Hispanic		White		Other	
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
			13	0	0	0	0	0	0	0	0	0	0	1	0	0	0
			14	0	0	0	0	0	0	0	0	0	0	2	0	0	0
			15	0	0	0	0	0	0	0	0	0	0	11	1	0	0
			SES	0	0	0	0	0	0	0	0	0	0	3	3	0	0
			Wage Grade	0	0	0	0	0	0	0	0	0	0	1	0	0	0
			Other	0	0	0	0	0	0	0	0	0	0	1	0	0	0
Transportation Security Administration	Non-Supervisor	SV	C	0	0	0	0	0	0	0	0	0	0	0	1	0	0
			D	2,383	2,832	100	114	453	198	55	43	1,430	919	5,090	3,329	43	16
			E	2,355	2,010	124	88	722	230	45	42	1,833	967	2,387	3,819	109	52
			F	650	503	33	32	100	89	25	20	358	243	2,638	1,564	30	16
			G	74	65	1	4	23	16	0	0	60	30	552	153	0	0
			H	64	71	2	5	21	16	2	3	56	23	474	205	0	3
			I	350	138	54	2	110	23	1	2	466	54	2,751	771	4	2
			J	61	81	0	3	20	12	1	0	29	12	423	193	0	0
			K	6	11	0	0	2	2	0	0	9	3	68	43	0	0
			L	0	0	0	0	0	0	0	0	0	0	1	0	0	0
			SES	1	0	0	0	0	0	0	0	0	1	9	2	0	0
	Supervisor	SV	6	0	0	0	0	0	0	0	0	1	3	0	0	0	0
			7	444	223	30	22	109	51	18	14	345	133	2,199	815	26	8
			8	94	37	0	0	20	8	1	3	54	27	468	125	1	2
			9	33	23	0	0	15	5	0	1	31	13	274	86	2	0
			10	35	19	0	4	17	6	1	0	24	17	435	44	2	0
			11	40	34	11	2	10	2	1	0	23	4	422	103	2	0
			12	0	3	0	0	0	0	0	0	3	1	47	22	0	0
			SES	7	3	1	0	4	1	0	0	4	1	68	18	0	0

The Distribution of Department of Homeland Security Permanent Workforce by Component, Supervisory Status, Pay Plan, Grade, Ethnic Group, and Gender

Component	Supervisor Status	Pay Plan	Grade	African American		American Indian or Alaskan Native		Asian or Pacific Islander		Hispanic		White		Other	
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
				00	00	00	00	00	00	00	00	00	00	00	00
U.S. Coast Guard	Non-Supervisor	GS/GM/GG/GH/GL	1	0	0	0	0	0	0	0	0	0	0	0	0
			2	0	0	0	0	0	0	0	0	0	0	0	0
			3	0	0	0	0	0	0	0	0	0	0	0	0
			4	0	0	0	0	0	0	0	0	0	0	0	0
			5	0	0	0	0	0	0	0	0	0	0	0	0
			6	0	0	0	0	0	0	0	0	0	0	0	0
			7	0	0	0	0	0	0	0	0	0	0	0	0
			8	0	0	0	0	0	0	0	0	0	0	0	0
			9	0	0	0	0	0	0	0	0	0	0	0	0
			10	0	0	0	0	0	0	0	0	0	0	0	0
			11	0	0	0	0	0	0	0	0	0	0	0	0
			12	0	0	0	0	0	0	0	0	0	0	0	0
			13	0	0	0	0	0	0	0	0	0	0	0	0
			14	0	0	0	0	0	0	0	0	0	0	0	0
			15	0	0	0	0	0	0	0	0	0	0	0	0
U.S. Coast Guard	Supervisor	GS/GM/GG/GH/GL	16	0	0	0	0	0	0	0	0	0	0	0	0
			17	0	0	0	0	0	0	0	0	0	0	0	0
			18	0	0	0	0	0	0	0	0	0	0	0	0
			19	0	0	0	0	0	0	0	0	0	0	0	0
			20	0	0	0	0	0	0	0	0	0	0	0	0
			21	0	0	0	0	0	0	0	0	0	0	0	0
			22	0	0	0	0	0	0	0	0	0	0	0	0
			23	0	0	0	0	0	0	0	0	0	0	0	0
			24	0	0	0	0	0	0	0	0	0	0	0	0
			25	0	0	0	0	0	0	0	0	0	0	0	0
			26	0	0	0	0	0	0	0	0	0	0	0	0
			27	0	0	0	0	0	0	0	0	0	0	0	0
			28	0	0	0	0	0	0	0	0	0	0	0	0
			29	0	0	0	0	0	0	0	0	0	0	0	0
			30	0	0	0	0	0	0	0	0	0	0	0	0

The Distribution of Department of Homeland Security Permanent Workforce by Component, Supervisory Status, Pay Plan, Grade, Ethnic Group, and Gender

Component	Supervisor Status	Pay Plan	Grade	African American		American Indian or Alaskan Native		Asian or Pacific Islander		Hispanic		White		Other	
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
				00	00	00	00	00	00	00	00	00	00	00	00
U.S. Secret Service	Non-Supervisor	GS/GM/GG/GH/GL	1	0	0	0	0	0	0	0	0	0	0	0	0
			2	0	0	0	0	0	0	0	0	0	0	0	0
			3	0	0	0	0	0	0	0	0	0	0	0	0
			4	0	0	0	0	0	0	0	0	0	0	0	0
			5	0	0	0	0	0	0	0	0	0	0	0	0
			6	0	0	0	0	0	0	0	0	0	0	0	0
			7	0	0	0	0	0	0	0	0	0	0	0	0
			8	0	0	0	0	0	0	0	0	0	0	0	0
			9	0	0	0	0	0	0	0	0	0	0	0	0
			10	0	0	0	0	0	0	0	0	0	0	0	0
			11	0	0	0	0	0	0	0	0	0	0	0	0
			12	0	0	0	0	0	0	0	0	0	0	0	0
			13	0	0	0	0	0	0	0	0	0	0	0	0
			14	0	0	0	0	0	0	0	0	0	0	0	0
			15	0	0	0	0	0	0	0	0	0	0	0	0
U.S. Secret Service	Supervisor	GS/GM/GG/GH/GL	16	0	0	0	0	0	0	0	0	0	0	0	0
			17	0	0	0	0	0	0	0	0	0	0	0	0
			18	0	0	0	0	0	0	0	0	0	0	0	0
			19	0	0	0	0	0	0	0	0	0	0	0	0
			20	0	0	0	0	0	0	0	0	0	0	0	0
			21	0	0	0	0	0	0	0	0	0	0	0	0
			22	0	0	0	0	0	0	0	0	0	0	0	0
			23	0	0	0	0	0	0	0	0	0	0	0	0
			24	0	0	0	0	0	0	0	0	0	0	0	0
			25	0	0	0	0	0	0	0	0	0	0	0	0
			26	0	0	0	0	0	0	0	0	0	0	0	0
			27	0	0	0	0	0	0	0	0	0	0	0	0
			28	0	0	0	0	0	0	0	0	0	0	0	0
			29	0	0	0	0	0	0	0	0	0	0	0	0
			30	0	0	0	0	0	0	0	0	0	0	0	0

The Distribution of Department of Homeland Security Permanent Workforce by Component, Supervisory Status, Pay Plan, Grade, Ethnic Group, and Gender

Component	Supervisor Status	Pay Plan	Grade	African American		American Indian or Alaska Native		Asian or Pacific Islander		Hispanic		White		Other		
				Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	
U.S. Mail	Non-Supervisor	GS/GM/ GG/GH/ GL	12	1	5	0	0	0	1	0	0	0	2	6	10	0
			13	1	5	0	0	0	0	0	0	1	9	5	0	0
			14	41	20	5	1	9	3	0	0	27	3	297	47	0
			15	15	5	1	0	3	0	0	0	8	0	114	21	0
			16	0	1	0	0	0	0	0	0	1	0	13	1	0
			17	0	0	0	0	0	0	0	0	0	0	10	1	0
			18	0	0	0	0	0	0	0	0	0	0	3	0	0
			19	1	0	0	0	0	0	0	0	0	0	3	0	0
			20	1	0	0	0	0	0	0	0	0	0	0	0	0
			21	0	0	1	0	0	0	0	0	0	2	0	5	1
			22	0	0	0	0	0	0	0	0	0	0	0	0	0
			23	0	0	0	0	0	0	0	0	0	0	0	0	0
U.S. Mail	Supervisor	GS/GM/ GG/GH/ GL	12	0	0	0	0	0	0	0	0	0	0	1	0	0
			13	0	0	0	0	0	0	0	0	0	0	0	0	0
			14	0	0	0	0	0	0	0	0	0	0	0	0	0
			15	0	0	0	0	0	0	0	0	0	0	0	0	0
			16	0	0	0	0	0	0	0	0	0	0	0	0	0
			17	0	0	0	0	0	0	0	0	0	0	0	0	0
			18	0	0	0	0	0	0	0	0	0	0	0	0	0
			19	0	0	0	0	0	0	0	0	0	0	0	0	0
			20	0	0	0	0	0	0	0	0	0	0	0	0	0
			21	0	0	0	0	0	0	0	0	0	0	0	0	0
			22	0	0	0	0	0	0	0	0	0	0	0	0	0
			23	0	0	0	0	0	0	0	0	0	0	0	0	0

QUESTIONS FROM THE HONORABLE MIKE ROGERS, RANKING, MEMBER,
SUBCOMMITTEE ON MANAGEMENT, INVESTIGATIONS, AND OVERSIGHT

RESPONSES FROM MAX STEIR

Question 1.: In your testimony you note that the General Schedule is “no longer good enough to attract and retain the best and brightest.” You also note that the Department of Homeland Security back to the 1949-era General Schedule would likely have greater costs than benefits.”

a. Please discuss what some of these costs would be.

The biggest cost to government is that it will fall farther behind in the competition for top talent. Talented people at all levels look to work environments that reward hard work and recognize high performance. The decades-old General Schedule system was designed for a federal workforce that was 70% clerical in nature; today's workforce is 70% professional, and highly focused on results. The General Schedule is not performance-sensitive, and is no longer adequate to attract or retain the talent that government needs. Prolonging the system will only cause agencies to fall farther behind the race for talent.

The deficiencies of the General Schedule system are well documented. For example, the U.S. Office of Personnel Management's 2002 White Paper, “A Fresh Start Federal Pay: The Case for Modernization,” provides data showing that not only is the GS system not performance sensitive, but it frequently either underpays or overpays various occupations in various geographic locales. Requiring DHS to return to a 1949-era compensation system that detracts from its ability to recruit, reward, and retain motivated, highly talented individuals simply does not make sense.

b. How well do provisions in the General Schedule address concerns raised by DHS employees in the Federal Human Capital Survey?

Given that no DHS employees have actually been placed under the alternative pay system proposed by DHS as a replacement for the General Schedule, it's fair to say that of the GS system do *not* address the concerns raised by DHS employees in the Federal Human Capital Survey (and also rejected in the Partnership's 2007 Best Places rankings). In both the 2004 and the 2006 Federal Human Capital Surveys, the responding employees were working under the GS system and their average responses continued to be among the lowest in government.

We note, however, that while the General Schedule will not help address the problems revealed in the Federal Human Capital Survey results, there is much that all agencies—regardless of their pay system—can and should do to improve employee engagement. Strong leaders who communicate clearly about agency objectives and the role of each employee in meeting those objectives are key. We also know that employees thrive on opportunities for teamwork and professional development are important ingredients in building a highly engaged

Question 2.: You recommend that “Congress should encourage and support Department efforts to hire and retain top talent, create a performance-based culture,

create learning and development opportunities for DHS employees and improve leadership.”

a. Does the Majority’s goal of repealing the Department’s personnel management flexibility heed this recommendation?

While we concur with the to ensure that employee collective bargaining rights and employee appeals rights are preserved, a wholesale repeal that includes the pay and performance management provisions of the DHS alternative HR system would do nothing to assist DHS in hiring and retaining top talent, creating a performance-based culture, and developing the talents.

Question 3: In your testimony, you recommend that “any DHS alternative pay system must meet certain requirements, and be certified by OPM, GAO or another entity specified by Congress, before it is implemented.”

a. What requirements do you believe an alternative pay system should meet?

We believe that an alternative pay system should be based on a strong performance management system that incorporates the following elements:

- Adherence to merit principles set forth in Section 2301 of Title 5 U.S.C.
- A fair, credible, and transparent employee performance appraisal system
- A link between the performance management system and the agency’s strategic plan.
- A means for ensuring employee involvement in the design and implementation of the system.
- Adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the performance management system.
- A process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting timetables for review.
- Effective safeguards to ensure that the management of the system is fair and equitable and based on employee performance.
- A means for ensuring that adequate agency resources are allocated for the design, implementation, and administration of the performance management system.
- A pay-for-performance evaluation system to better link individual pay to performance, and provide an equitable method for appraising and compensating employees.

Question 4: What are the greatest challenges faced by the federal government in recruiting top-notch employees?

The challenges faced by federal government in recruiting are many. The Partnership’s “Back to School” report found that on college campuses, few students know about federal job opportunities, and those that are familiar with the opportunities in federal service have no idea where to start or how to navigate the federal hiring process. One of the greatest challenges is the government’s inability to offer competitive salaries to top talent in critical occupations for which there is shortage of quality candidates. In addition, the inability to adequately reward top performing employees and the lack of incentives for marginal employees to either improve or leave has hampered the government’s ability to attract and retain top-notch employees at all levels. It is this inability that the DHS alternative pay system was intended to address.

Question 5: You note that the Department will once again rank at the bottom of the list in the *Best places to Work in the Federal Government*.

a. Do you believe that the implementation of the provisions of the New Human Capital Operational Plan (HCOP) will help the Department rank higher on the list next year?

We think the new Human Capital Operational Plan has the potential to help DHS improve its Best Places score over time. To do so, the HCOP must be conscientiously implemented and the resources must be available to provide the planned investment in training, improved system design, progress monitoring, and so on. We encourage the subcommittee to conduct regular oversight of DHS personnel issues and the implementation of the HCOP.

81

